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Highlights of Ontario's Employment Equity Regulations

June, 1994

The Regulations package under the *Employment Equity Act* outlines the practical steps and activities required to make employment equity a reality in Ontario workplaces. It describes, for example, how employers are to approach the four basic steps in planning employment equity:

- informing employees about the employment equity principles and process;
- surveying the workforce to determine how many members of the designated groups — Aboriginal people, people with disabilities, members of racial minorities and women — are in the workplace;
- reviewing workplace policies and practices to identify barriers facing the designated groups; and
- developing a plan to remove barriers and make reasonable progress towards a workforce that reflects the community.

There are modified requirements for **small employers**. In the Regulation, a small employer in the private sector is defined as one with at least 50 but fewer than 100 employees. In the broader public sector — for instance, municipalities or social service agencies — a small employer is an organization with at least 10 but fewer than 50 employees.

The *Employment Equity Act* and its accompanying Regulations come into effect on September 1, 1994. There is a phased-in implementation of employment equity, with different types and sizes of employers having different timeframes to complete the basic four-step planning process.

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Joint Responsibility

Where employees are represented by unions, employers and bargaining agents will undertake employment equity as a **joint responsibility**. This is a unique feature of the Ontario legislation, and various sections of the Regulation specify how joint responsibility is to be effectively managed for unionized workers. Employers and bargaining agents have joint responsibility, for example, in communicating with employees on employment equity, surveying the workforce, reviewing employment policies and practices, and developing and revising employment equity plans.

Consultations with Unrepresented Employees

Employees not represented by unions will also participate in the process. The employer will consult with these workers on the workforce survey, the review of policies and practices, and the employment equity plan.

Communicating with Employees

Since the success of employment equity depends on employee understanding, employers and bargaining agents are responsible for giving all employees information about the employment equity process at various phases of implementation. The Regulation sets out the details of how employers and bargaining agents are to do this. For example, employees will be informed about the principles of employment equity before the implementation process in the workplace begins.

Surveying the Workforce

As a basis for planning, employers and bargaining agents will conduct a **workforce survey** to find out who is in the workforce when the process begins, to get an indication of the representation of designated group members in the workplace.

Employees will receive a questionnaire asking if they are members of a designated group. The questionnaire will make clear that an individual can be a member of more than one designated group. This approach — self-identification — is the best way to determine who is a member of a designated group in a workplace, while respecting individual privacy. Employees have the right to decide whether or not to fill out the questionnaire, although all questionnaires must be returned.

The questionnaires are then used by the employer to produce the **workforce profile** — which indicates the extent to which designated group members are present in the employer's workplace.

To produce their profile, *small employers* tally up the number of members of each designated group employed in their total workforce. *Large employers* produce a more detailed profile, showing the number of designated group members in each occupational group in each geographic area where they work.

Reviewing Policies and Practices

The next step in the employment equity process is to identify barriers facing the designated groups in the workplace. **Barriers** are rules, practices or conditions in the workplace that adversely affect members of a designated group more than other people. The existence of barriers may explain why the workforce profile looks the way it does.

To identify barriers, employers and bargaining agents review the way employees are recruited, hired, promoted, treated and retained in the workforce. Then, they determine if any of these policies and practices act as barriers.

Examples of possible barriers are:

- height and weight restrictions that are unrelated to the job and therefore tend to exclude women and certain racial minorities
- physical barriers to wheelchair access to the workplace
- requiring Canadian experience when it is not necessary to do the work.

The *Employment Equity Act* provides that seniority rights concerning lay-off or recall to work after lay-off are not considered barriers to employment.

The Employment Equity Plan

Employers prepare a three-year **employment equity plan** customized to their own circumstances. Preparing the plan is a joint responsibility of employers and bargaining agents, and unrepresented employees must be consulted about an employer's proposed plan.

Each plan will contain measures to advance equitable treatment for the designated groups, as well as the timetables for implementing and monitoring them. These measures include:

- **actions to eliminate barriers** — for example, eliminating height and weight requirements unrelated to the job

- **positive measures** to help members of designated groups secure equitable treatment in the workplace — for example, mentoring or bridging programs
- **accommodation measures** — for example, providing a work-related technical device that would enable a person with a disability to do the job
- **supportive measures** that benefit all employees — for instance, flexible working hours
- **anti-harassment policies** and **anti-discrimination policies** that would improve the working environment for all employees.

Large employers' plans contain **numerical goals** for making the workforce more representative of the community, and timelines for achieving this.

A numerical goal is the proportion of **job openings** in an occupational group that an employer targets for members of a particular designated group. Job openings include new hirings and promotions, as well as transfers from one occupational group to another. A large employer's plan will contain a numerical goal for each designated group in each occupational group in the employer's workforce. Employers with more than one location in Ontario will establish separate goals for each geographic area covered by the plan.

In setting goals, employers and bargaining agents will consider a number of factors. They will begin by looking at the degree of underrepresentation — that is, the gap between the proportion of members of each of the designated groups in the employer's workforce and the proportion of members of the designated groups in the community's working age population. Then, they will look both inside and outside the employer's organization to estimate the availability of qualified and potentially qualified designated group members for job openings expected during the three-year plan.

Every three years, employers and bargaining agents will review progress and revise the employment equity plan for the next three years.

Employment equity is not going to be accomplished overnight. Through employment equity plans, employers, unions and employees work toward goals that mark reasonable progress over time.

Certificates

The Employment Equity Commission, which will be established as an independent, arm's length agency when the Act takes effect on September 1, 1994, will monitor the implementation of employment equity. The main way employers will provide information to the Commission is through a **certificate**.

The first certificate, filed within six months after the plan begins, will confirm that the steps required by the Act have been completed, provide data on the workforce profile and, in the case of large employers, include information on the measures in the plan. Employers will file a new certificate each time a plan is revised — that is, every three years — confirming that the plan has been reviewed and indicating the progress that has been made.

The certificates will provide an important source of data and information for the Commission's annual report on progress toward achieving employment equity in Ontario.

Preparing Reports

Employers also prepare **reports** on their plans. Most employers will keep their reports on file and send them to the Employment Equity Commission on request. The Ontario Public Service, as well as municipalities, universities, colleges, school boards and hospitals with 50 or more employees, will send their reports to the Commission.

Once the initial plan has been prepared, employers compile a first report highlighting the measures in the plan and providing information on the workforce profile as a basis for tracking progress. Large employers provide more details on the workforce profile than do small employers.

After the three-year plan is up, employers prepare an end-of-plan report outlining the actions taken during that period and presenting an up-to-date workforce profile showing the changes that have occurred. Again, large employers include more detailed information. A new end-of-plan report is compiled at the end of each three-year plan.

How To Get More Information

If you have **questions** about the *Employment Equity Act* or Regulations, or would like a copy of a plain language overview of the Act or the Regulations, please call the Ministry of Citizenship Information Lines below. Alternative formats of information materials are available from the Ministry.

- Outside Toronto, call: 1-800-268-5737
- In Toronto, call: 326-6224
- TTY, outside Toronto, call: 1-800-387-4456
- TTY, in Toronto, call: 326-1778

If you would like to contact the Office of the Employment Equity Commissioner for further information, its newsletter or other materials as they become available, please contact:

The Office of the Employment Equity Commissioner
77 Bloor Street West, 10th Floor
Toronto, Ontario
M7A 2R9

or call the Employment Equity Information Hotline:

- Outside Toronto, call: 1-800-567-0356
- In Toronto, call: 314-0016
- TTY, outside Toronto, call: 1-800-663-2534
- TTY, in Toronto, call: 314-0011

If you would like to purchase a copy of the legal text of the *Employment Equity Act,* please contact Publications Ontario below. If you would like to purchase a copy of the Regulations to the Act, they will be available after July 22, 1994 through Publications Ontario. Please write:

Publications Ontario
50 Grosvenor Street
Toronto, Ontario
M7A 1N8

or call Publications Ontario

- Outside Toronto, call: 1-800-668-9938
- In Toronto, call: 326-5300

TTY users may order through the Citizens' Inquiry Bureau:

- Outside Toronto, call: 1-800-268-7095
- In Toronto, call: 325-3408

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FOR IMMEDIATE RELEASE
JUNE 29, 1994

EMPLOYMENT EQUITY TO TAKE EFFECT ON SEPTEMBER 1, 1994

TORONTO -- Ontario Minister of Citizenship Elaine Ziemba today announced that Ontario's Employment Equity Act will come into effect on September 1, 1994. She also released regulations outlining how employment equity will be implemented in Ontario workplaces.

"The heart of employment equity is removing barriers and ensuring fair treatment in the workplace," Ms Ziemba said. "With the release today of the regulations, after a year of consultations, employers, unions and employees will have the summer to examine them and begin to consider how to work together to set up processes to ensure an orderly and efficient implementation of employment equity."

Implementation will be phased in, with staggered timetables for employers in various sectors and of different sizes. The Ontario Public Service will lead the way, with an employment equity plan in place by September 1, 1995. Employers with more than 10 employees in the broader public sector -- including municipalities, universities, colleges, school boards, and hospitals -- will have until March 1, 1996 to have their employment equity plans in place.

Large private-sector employers with more than 500 employees have until March 1, 1996 to develop their plans. Companies with 100 to 499 employees have until September 1, 1996 to develop their employment equity plans. Small private-sector employers with 50 to 99 employees will have until September 1, 1997 to reach this stage.

Within these timeframes, employers will survey their workforces to determine how many members of the designated groups -- women, Aboriginal people, people with disabilities and racial minorities -- are in their workplaces. Employers will also review policies and practices to identify barriers to equity in their workplaces and then develop plans to remove those barriers.

Private-sector employers with fewer than 50 employees and Broader Public Sector employers with fewer than 10 employees are not covered by the requirements of the Act.

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The Act, which sets out the principles, objectives and main features of employment equity, is accompanied by regulations outlining the practical steps needed to make employment equity a reality in Ontario workplaces. Seasonal agricultural workers, including those employed under federally administered international programs, are exempt from the Act. Discussions and consultations will continue with Aboriginal organizations and with the construction industry to develop regulations that respond to the particular circumstances of those workforces.

In June 1993, a Draft Regulation was released for extensive consultation with representatives of business, labour and the designated groups. As a result of those consultations, clarifications have been provided in the regulations regarding the joint responsibilities of employers and unions, reporting requirements for employers in the broader public sector and the conditions under which previous workforce surveys can be used.

September 1, 1994, will mark the launch of the Employment Equity Commission as an independent, arm's-length agency. It will play a critical role in the efficient implementation of employment equity in Ontario workplaces, assisting employers, unions and employees in the implementation of the Act and regulations. It will provide how-to materials and statistical information to help employers break down barriers and create fairer workplaces. It will also monitor employers' progress under the legislation.

Juanita Westmoreland-Traoré, who was appointed Employment Equity Commissioner in 1991, will head the Commission.

The Employment Equity Tribunal, which will also be established in the Fall, will ensure compliance with the Act by mediating and adjudicating cases brought before it, and reviewing and enforcing orders of the Commission. Under the Act, the Tribunal has been given the power to levy fines of up to $50,000 for non-compliance. Recruitment for the Chair of the Tribunal is under way.

"I am proud to have reached this milestone on the road towards the fair treatment and equitable participation of all Ontarians in the province's social and economic life," Ms Ziemba said.

An information package on the regulations, which includes a plain language guide to the regulations, is available by calling: in Toronto, 326-6224, TTY 326-1778; from outside of Toronto, 1-800-268-5737, TTY 1-800-387-4456.

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A Chronology of Consultations on Employment Equity

June, 1994

November, 1990

- The NDP government, in its first Speech from the Throne, identifies employment equity as a priority on its social justice agenda.

March, 1991

- Juanita Westmoreland-Traoré is appointed Ontario's first Employment Equity Commissioner.

Summer, 1991

- The Employment Equity Commissioner establishes a Consultation Advisory Committee with members representing designated groups, labour, business and employment equity practitioners.

November, 1991

- The Office of the Employment Equity Commissioner (OEEC) releases a discussion paper entitled "Working Towards Equality" as a basis for province-wide consultations.

December, 1991 – March, 1992

- The OEEC conducts a public consultation consisting of public hearings, visits to community-based organizations and workplaces across Ontario, and more than 100 community meetings.
- Public forums are held in Windsor, London, Hamilton, Thunder Bay, Sudbury, Timmins, Ottawa, Kingston, Toronto and Scarborough.
- The OEEC receives more than 400 written briefs.

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- The OEEC works with community-based organizations, youth groups, designated groups, organized labour and business associations to develop joint initiatives designed to encourage participation in the process for developing legislation.
- The OEEC holds technical seminars to explore such issues as data collection and reporting, worker participation in employment equity planning, and compliance and enforcement.
- Meetings are held with a variety of groups within the Ontario Public Service (OPS), including the Ontario Public Service Employees Union and representatives of the designated groups.

Spring, 1992, onwards

- The Minister of Citizenship, Elaine Ziemba, establishes a Technical Advisory Group composed of representatives of business, organized labour and designated groups.

June 25, 1992

- Bill 79, An Act to Provide for Employment Equity for Aboriginal Peoples, People with Disabilities, Members of Racial Minorities and Women, is introduced for First Reading.
- The Office of the Employment Equity Commissioner releases a report on its consultation process—"Opening Doors".
- The Ministry of Citizenship sets up an information line to deal with inquiries from employers, unions, employees, members of the designated groups and the general public.

June, 1992, onwards

- The Minister of Citizenship and the Employment Equity Commissioner continue to meet with a wide range of individuals, organizations, associations and community groups to discuss Bill 79.
- The OEEC publishes its first newsletter.

August – October, 1992

- Meetings of the Commissioner's Regulations Development Advisory Group and the Joint Technical Advisory Committee on Construction Regulations are held. Members of these two groups represent business, labour and designated groups.
- Chaired by the Employment Equity Commissioner, these groups advise on the development of the Draft Regulation.

Spring, 1993

- The Ministry of Citizenship Employment Equity Regulations Unit undertakes a technical consultation with more than 50 employers in the public, broader public and private sectors. The purpose is to solicit input on the Draft Regulation in its final stages.
- A number of employers and bargaining agents participate in an on-site review of the soon-to-be-released Draft Regulation.
- The Office of the Employment Equity Commissioner sets up an information hotline.

June 16, 1993

- Bill 79 is introduced for Second Reading in the Legislature.
- The Minister of Citizenship releases the Draft Regulation.
- Interested parties are asked to submit written briefs on the Draft Regulation to the Ministry by October 29, 1993.

July 19, 1993

- Second Reading debate on Bill 79 is concluded.
- The Bill is referred to the Standing Committee on Administration of Justice for public hearings.

August 16 – September 2, 1993

- The Standing Committee on Administration of Justice holds public hearings on Bill 79.
- More than 100 interested parties make presentations to the Committee.
- The Clerk of the Committee receives 184 written submissions on the Bill.

September 7, 1993

- The Government releases a package of proposed amendments to Bill 79, based on discussions during the public hearings and an analysis of the submissions to the Standing Committee.

September 8, 1993

- The Standing Committee on Administration of Justice begins a clause-by-clause review of Bill 79.
- Additional amendments are tabled throughout the Standing Committee process.

September 14, 1993

- The Office of the Employment Equity Commissioner establishes a Public Education Advisory Committee to ensure that public education strategies and training are responsive to the needs of various clients and communities.

October 29, 1993

- The deadline is reached for written submissions to the Employment Equity Regulations Unit of the Ministry of Citizenship on the Draft Regulation.
- The Ministry receives 59 written submissions.
- The Draft Regulation is discussed in 80 of the submissions received by the Standing Committee reviewing Bill 79.

December 6, 1993

- The Standing Committee on Administration of Justice completes its clause-by-clause examination of Bill 79.

December 9, 1993

- Bill 79 receives Third Reading in the Ontario Legislature.
- The Government announces that Proclamation of the Act—the date that it becomes effective in Ontario — will occur in 1994.

December 14, 1993

- Bill 79 receives Royal Assent.

January to June, 1994

- The Minister and the Commissioner maintain an active public speaking schedule across the province.
- The Ministry analyzes input received on the Draft Regulation and, after Government discussion and decisions, begins drafting the Regulations package.
- The Office of the Employment Equity Commissioner distributes posters for the workplace, makes available a video on employment equity, and continues to publish its newsletter.
- The OEEC offers train-the-trainer workshops in various locations throughout the province.

- The Ministry meets with representatives of Aboriginal organizations concerning the definition of Aboriginal person and how employment equity will be applied in Aboriginal workplaces.
- Officials from the Ministry, the OEEC and Human Resources Development Canada work together on how to assist employers who will be covered by both the Federal Contractors Program and Ontario's legislation.

June 29, 1994

- The Government announces that the Employment Equity Act will be proclaimed on September 1, 1994.
- A Regulations package is released, outlining the details of how employment equity will be implemented in Ontario workplaces.

Summer, 1994

- The Office of the Employment Equity Commissioner releases an introductory booklet on implementing employment equity.
- The legal text of the Regulations becomes available for purchase through Publications Ontario.

September 1, 1994

- The Government proclaims the Employment Equity Act, the broadest such legislation in North America and the first passed by a provincial legislature in Canada.
- The Act and its Regulations become effective in Ontario workplaces.
- The Employment Equity Commission is formally established as an independent, arm's length agency with a mandate to provide assistance and monitor employment equity in Ontario, with Juanita Westmoreland-Traoré as its head.
- The Commission releases the first of a series of Guidelines developed to assist employers, unions and employees in implementing employment equity.
- The Employment Equity Tribunal is established.

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A Backgrounder On

The Employment Equity Commission

June, 1994

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In its first Speech from the Throne in November 1990, the government of Ontario stated its intention to introduce employment equity legislation. In March, 1991, it announced the appointment of Juanita Westmoreland-Traoré as Ontario's first Employment Equity Commissioner.

Since then, Ms Westmoreland-Traoré has met regularly with representatives of business, labour and the designated groups, held extensive public consultations on key policy and implementation issues throughout the province, and established an advisory committee on public education. The input from the Commissioner's consultations contributed significantly to the development of the *Employment Equity Act* and Regulations.

Role of the Commission

The Employment Equity Commission will be formally established as an independent, arm's-length agency reporting to the Minister of Citizenship upon proclamation of the legislation on September 1, 1994. It will play a critical role in the orderly and effective implementation of employment equity.

The *Employment Equity Act* sets out the functions of the Commission:

- Provide public education to promote understanding and acceptance of employment equity
- Offer assistance to employers, employees and unions to comply with the Act
- Conduct research and develop policy
- Engage in public consultations

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- Further the principles of employment equity
- Monitor the implementation of employment equity, and
- Conduct audits to ensure compliance with the Act.

The Commission will provide how-to materials as well as technical and statistical information to help employers and bargaining agents implement employment equity. It will also monitor employers' progress through audits of employment equity plans. The Act gives the Commission the power to order steps to be taken to comply with the legislation.

The Act requires the Commission to report annually on its activities to the Minister of Citizenship. The report must include data and information on the progress made toward achieving employment equity in Ontario.

Moving Towards Implementation

To help employers, unions and affected employees prepare for the implementation of employment equity, the Office of the Employment Equity Commissioner will provide an introductory booklet designed for use leading up to proclamation of the legislation. It will help employers and, where applicable, unions to determine how the *Employment Equity Act* will apply to their workplaces, explaining the steps that those parties who want to get a head start can take. And, it will outline the Employment Equity Commission materials and supports that will be available to employers, unions and employees.

Commission Guidelines

Work is well under way on the development of a series of Guidelines to help employers, bargaining agents and employees comply with the requirements of the Act and Regulations.

These Guidelines will explain legislative and regulatory requirements and provide suggestions and best practices to implement employment equity. They are also intended to help employers, bargaining agents and employees develop their own customized approach that meets their own specific needs.

Several Guidelines are scheduled to be released when the Act becomes effective on September 1, 1994. They will deal with how employers and bargaining agents can jointly participate in the process in their workplaces, how non-unionized employees will be involved, how to conduct a workforce survey, and methods of collecting and maintaining workforce data.

Provincial/Federal Co-operation

Some Ontario employers have already introduced employment equity in their workplaces under the Federal Contractors Program administered by Human Resources Development Canada.

Officials from the Office of the Employment Equity Commissioner, the Ministry of Citizenship, and Human Resources Development Canada have developed a working relationship so that employers under the federal program covered by the Ontario legislation can focus their resources on achieving results. For example, in defining geographic areas for employment equity purposes, Ontario will use the same areas the federal program uses in compiling data to assist employers. This example reflects a commitment to promote efficiency and further co-ordination.

Other Services and Materials

The Office of the Employment Equity Commissioner, through its public education program, has been conducting training workshops, distributing information packages, operating an information hotline, and maintaining an active public speaking schedule. It provides a regular newsletter, has developed a video and distributed posters to thousands of Ontario workplaces.

After September 1, 1994, the Employment Equity Commission will offer services and materials to assist in the implementation of employment equity in Ontario. These will include a range of services as well as software and statistical data.

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Questions and Answers on Employment Equity in Ontario

June, 1994

1. When will the *Employment Equity Act* come into effect?

Ontario's *Employment Equity Act* and its accompanying Regulations become effective on September 1, 1994. At the same time, the Employment Equity Commission will be formally established as an independent, arm's-length agency with a mandate to assist and monitor employment equity in Ontario.

2. How will employment equity be implemented?

There are four basic steps in the employment equity planning process:

- informing employees about employment equity principles and process;
- surveying the workforce to determine how many women, Aboriginal people, people with disabilities and members of racial minorities are in the workplace;
- reviewing workplace polices and practices to identify barriers facing the designated groups; and
- developing a plan to remove barriers and make reasonable progress towards achieving employment equity.

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3. How much time will employers have to complete these steps?

Different types and sizes of employers will have different timeframes:

- provincial government ministries and some agencies, boards and commissions will have until September 1, 1995, or one year from the effective date;
- broader public sector employers — including municipalities, universities, colleges, school boards and hospitals — with 10 or more employees will have until March 1, 1996;
- private-sector employers with 500 or more employees will have until March 1, 1996;
- private-sector employers with 100 or more employees but under 500 will have until September 1, 1996;
- private-sector employers with 50 or more employees but under 100 will have until September 1, 1997.

4. How many employers are covered by the legislation?

About 17,000 employers in Ontario — affecting about three-quarters of the workforce — are covered by the *Employment Equity Act*. Employers who do **not** have obligations under the Act include those in the private sector with under 50 employees; those in the broader public sector with under 10 employees; and police forces under the *Police Services Act*, which has its own employment equity regulations.

Employers in federally regulated industries — banks, for example — are not covered by Ontario's legislation.

5. Are there different requirements for small employers?

Small employers are responsible for informing employees about employment equity, conducting a workforce survey, identifying barriers and developing employment equity plans. But they do not set numerical goals, and they have simplified reporting requirements.

A small employer is defined in the Regulation as a private sector employer with at least 50 but under 100 employees or a broader public sector employer with at least 10 but under 50 employees.

6. What role do unions play in employment equity?

Where employees are represented by unions, employers and bargaining agents will plan employment equity as a joint responsibility. This is a unique and important feature of employment equity in Ontario. Joint responsibilities include communicating with employees, conducting the workforce survey, reviewing employment policies and practices and developing and revising the employment equity plan.

Employees not represented by unions will also participate in the process. The employer will consult with these workers on the workforce survey, the review of policies and practices, and the employment equity plan.

7. What is the connection between the Act and the Regulations?

The Act sets out the principles, objectives and main features of employment equity, while the Regulations outline the practical steps and activities needed to implement employment equity in Ontario workplaces.

8. How were the Regulations developed?

The Regulations, like the Act itself, are the result of extensive consultation involving employers, labour unions, designated group representatives and human resources experts. In June, 1993, a Draft Regulation was released for consultation, and more than 60 submissions were received in response. In addition, the Draft Regulation was discussed in 80 submissions to a legislative committee during hearings on the Act. The government considered this input in developing the Regulations package released in June, 1994.

9. How will employers, unions and employees be assisted in implementing employment equity?

The Act and the Regulations set out legal obligations and indicate what must be done. The Employment Equity Commission will provide information and materials to assist employers, unions and workers in fulfilling these legal obligations. For example, the Office of the Employment Equity Commissioner (OEEC) will provide an introductory booklet designed for use leading up to proclamation of the legislation. It will help employers and, where applicable, unions to determine how the Act will apply to their workplaces. And, when the Act takes effect on September 1, 1994, the Commission is scheduled to release the first in a series of Guidelines that will provide detailed information as well as examples of employment equity in practice.

10. Some Ontario employers already have employment equity plans under the Federal Contractors Program. How will they be affected?

Officials from the OEEC, the Ministry of Citizenship and Human Resources Development Canada have been working together so that employers covered by the federal program and Ontario's legislation can focus their resources on achieving results. In defining geographic areas for employment equity purposes, Ontario has adopted the areas the federal program uses in compiling data to assist employers. Ontario is also using the same system the federal initiative does for classifying occupations. These examples reflect a commitment to promote efficiency and further co-ordination.

11. Will employers who have voluntary employment equity programs have to start over?

Employers who have already conducted a workforce survey or reviewed their employment policies and practices will not have to repeat these efforts, if the previous survey or review meets the conditions set out in the Regulation. Bargaining agents and employers will jointly decide if the conditions have been met. If they cannot agree, either party can ask the Employment Equity Commission for an opinion, or may apply to the Employment Equity Tribunal to determine the issue.

12. What is the Employment Equity Tribunal?

The Act establishes the Employment Equity Tribunal as an adjudicative body. The Tribunal will have the power to make decisions on complaints and disputes under the Act, mediate cases and hear appeals from orders of the Commission. The recruitment of the Chair of the Tribunal is under way.

13. What is the status of Regulations on employment equity in Aboriginal workplaces?

Discussions are being held between Ministry officials and representatives of Aboriginal organizations regarding the application of employment equity to Aboriginal workplaces. To allow time for these discussions to continue, and to develop a special regulation for these workplaces in keeping with the Statement of Political Relationship, the effective date of the legislation for Aboriginal workplaces is delayed for a one-year period.

14. What is the status of Regulations on employment equity in the construction industry?

The Ministry of Citizenship will consult with relevant parties in the construction industry, including trade unions, contractors' associations, and designated groups working in this industry, so that there is an appropriate application of employment equity for this sector. To allow time for the development of a special regulation for this industry, the dates for completion of employment equity plans in the construction industry have been set one year later than for other employers.

15. Are seasonal employees covered under the Employment Equity Act and Regulations?

Yes. Seasonal employees are included in the workforce survey, the review of policies and practices, and measures to remove barriers in an employment equity plan. But numerical goals are not set for seasonal employees or seasonal job openings.

16. What about seasonal agricultural workers?

Because of the nature of seasonal agricultural work, and because of the special requirements of federal programs affecting off-shore workers in the agricultural industry, the Regulations provide that seasonal agricultural employees are exempt from the provisions of the *Employment Equity Act.*

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EMPLOYMENT EQUITY IN ACTION
An Overview of Ontario's Employment Equity Regulations

June, 1994

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Table of Contents

Introduction 1
Regulations under the Act 2
The Employment Equity Commission 2
How To Get More Information 3

1. **Defining Key Terms** 5
Designated Groups 5
Barrier 5
Joint Responsibilities 5
Multiple Plans 6
Initial Plan 6
Small Employer 6
Geographic Area 6
Occupational Group 7
Salary Group 7

2. **The Workforce Survey** 8
The Questionnaire 8
Previous Surveys 9
Workforce Profile 9
New Surveys 10

3. **Identifying the Barriers** 11
Review of Policies and Practices 11
Determining Barriers 12
Seniority Rights 12
Previous Reviews 12

4. **The Employment Equity Plan** 14
Developing the Measures 14
Setting Numerical Goals 15

5. **Reviewing and Revising the Plan** 17

6. **Certificates** 18
First Certificate 18
Later Certificates 18

7. **Joint Responsibilities** 20

8. **Consulting Unrepresented Employees** 22

9. **Communicating Employment Equity to Employees** 23

10. Keeping Records 24

11. Preparing Reports 25
First Report 25
End-of-Plan Reports 26

Introduction

Ontario's *Employment Equity Act*, which becomes effective on September 1, 1994, outlines what is basically a four-step planning process for employers, unions and employees working together to move toward employment equity. These four steps are:

- communicating with employees about employment equity principles and process;
- surveying the workforce to determine how many women, Aboriginal people, people with disabilities and members of racial minorities are in the workplace;
- reviewing workplace policies and practices to identify barriers facing the four designated groups; and
- developing a plan to remove barriers and make reasonable progress towards achieving employment equity.

Different types and sizes of employers will have different timeframes for completing the basic four-step planning process:

- Provincial government ministries and some agencies, boards and commissions will have until September 1, 1995, or one year from the effective date.
- Broader public sector employers — including municipalities, universities, colleges, school boards and hospitals — with 10 or more employees will have 18 months.
- Private-sector employers with 500 or more employees will have 18 months.
- Private-sector employers with 100 or more employees but under 500 will have two years.
- Private sector employers with 50 or more employees but under 100 will have three years from the effective date.

About 17,000 employers in Ontario — affecting about three-quarters of the workforce — are covered by the *Employment Equity Act*. Employers who do **not** have obligations under the Act include: employers in the private sector with under 50 employees; employers in the broader public sector with under 10 employees; and police forces under the *Police Services Act*, because that Act has its own employment equity regulations.

Federally-regulated employers in Ontario — banks, for example — are not covered by the Ontario legislation.

Regulations under the Act

The Act sets out the principles, objectives and main features of employment equity. It is accompanied by Regulations which come into effect in tandem with the Act on September 1, 1994.

The Regulations outline the practical steps and activities needed to make employment equity a reality in Ontario workplaces and provide definitions of some key terms. Aboriginal workplaces and the construction industry will have special regulations adapting requirements of the Act to their unique circumstances. Since discussions and consultations with the respective parties are continuing, the Regulations released this month set the dates for completion of employment equity plans by these employers one year later than for other employers. Because of the nature of seasonal agricultural work and because of federal programs affecting off-shore workers in the agricultural industry, the Regulations provide that seasonal agricultural employees are exempt from the Act.

The Regulations package, like the Act itself, is the result of extensive consultation involving employers, labour unions, designated group representatives and human resources experts. In June, 1993, a Draft Regulation was released for consultation, and more than 60 submissions were received in response. In addition, the Draft Regulation was discussed in 80 submissions to a legislative committee during hearings on the Act.

This overview of the Regulations package is intended to be used for informational purposes only. For a precise description of employment equity responsibilities and obligations, readers should consult the Act and its accompanying Regulations.

The Employment Equity Commission

Juanita Westmoreland-Traoré was named Ontario's Employment Equity Commissioner in 1991. Since then, she has been playing a leading role in the consultation process that led to the development of the legislation. Ms. Westmoreland-Traoré will head the **Employment Equity Commission** when it is formally established as an independent, arm's-length agency on September 1, 1994.

The role of the Commission is to facilitate and monitor employment equity in Ontario. It will provide information and materials to employers, unions and workers as well as undertake public education. It will also conduct audits and will have the power to order employers to take steps to comply with the legislation.

While the *Employment Equity Act* and Regulations set out legal obligations and indicate what must be done, the Commission will provide guidance on how to do it. For example, the Office of the Employment Equity Commissioner (OEEC) will make available an introductory booklet on implementing employment equity. A series of **Guidelines** is also being produced that will provide detailed information as well as examples of employment equity in practice. The first of these Guidelines are scheduled to be available when the Act becomes effective on September 1.

The Act also establishes the **Employment Equity Tribunal** as an adjudicative body. The Tribunal will have the power to mediate cases, hear appeals of orders and make final decisions on complaints and disputes involving compliance with the Act. The recruitment of the Chair of the Tribunal is under way.

How To Get More Information

If you have **questions** about the *Employment Equity Act* or Regulations, or would like a copy of a plain language guide to the Act, please call the Ministry of Citizenship Information Lines below. Alternative formats of information materials are available from the Ministry.

- Outside Toronto, call: 1-800-268-5737
- In Toronto, call: 326-6224
- TTY, outside Toronto, call: 1-800-387-4456
- TTY, in Toronto, call: 326-1778

If you would like to contact the Office of the Employment Equity Commissioner for further information, the OEEC newsletter or other materials as they become available, please contact:

The Office of the Employment Equity Commissioner
77 Bloor Street West, 10th Floor
Toronto, Ontario
M7A 2R9

or call the Employment Equity Information Hotline:

- Outside Toronto, call: 1-800-567-0356
- In Toronto, call: 314-0016
- TTY, outside Toronto, call: 1-800-663-2534
- TTY, in Toronto, call: 314-0011

If you would like to purchase a copy of the legal text of the *Employment Equity Act,* please contact Publications Ontario below. If you would like to purchase a copy of the Regulations to the Act, they will be available after July 22, 1994 through Publications Ontario. Please write:

Publications Ontario
50 Grosvenor Street
Toronto, Ontario
M7A 1N8

or call Publications Ontario

- Outside Toronto, call: 1-800-668-9938
- In Toronto, call: 326-5300

TTY users may order through the Citizens' Inquiry Bureau:

- Outside Toronto, call: 1-800-268-7095
- In Toronto, call: 325-3408

1. Defining Key Terms

To understand how employment equity works, it is helpful to keep in mind the meaning of several key terms defined in the Act and the Regulations.

Designated Groups

The four designated groups in Ontario's *Employment Equity Act* are:

- **Aboriginal people**: members of the Indian, Inuit, or Métis peoples of Canada
- **people with disabilities**: persons with a persistent physical, mental, psychiatric, sensory or learning impairment that they believe, or feel an employer is likely to believe, disadvantages their employment prospects
- **members of racial minorities**: persons who, because of their race or colour, are in a visible minority in Ontario
- **women.**

A person may be a member of more than one designated group.

Barrier

Employment equity is designed to remove barriers. According to the Regulations, a rule, practice or condition in the workplace is a **barrier** if it adversely affects members of a designated group more than it does others. Legitimate job requirements are not considered barriers under the Act.

Joint Responsibilities

Under the Act, a union that is certified or recognized by law as representing employees in negotiations with an employer is their **bargaining agent** for the purposes of employment equity. Employers and bargaining agents have joint employment equity responsibilities for the portion of the workforce represented by the bargaining agent. These responsibilities include:

- providing information to employees about employment equity
- conducting the workforce survey
- reviewing workplace practices and policies
- identifying barriers
- developing the employment equity plan
- reviewing and revising the plan.

Under the Act employers and bargaining agents must carry out their joint responsibilities separately from normal collective bargaining. The Regulations outline some specific procedures for carrying out joint responsibilities.

Multiple Plans

Under the Act, an employer and bargaining agent have the option of preparing more than one plan, provided that the plans together cover all employees and workplaces. Multiple plans could mirror the corporate structure or geographic locations, for example. While, for convenience, the text of this overview refers to one plan, there may be more than one plan in a workplace. Section 21 of the Regulation makes clear that multiple plans cannot be organized in a way that defeats the principles of the Act.

Initial Plan

The "initial plan" referred to in the Regulations means the first employment equity plan prepared under the Act.

Small Employer

The Regulations provide for modified requirements for small employers. Small employers are responsible for informing employees about employment equity, conducting the workforce survey, identifying barriers and developing employment equity plans. But they do not set numerical goals, and they have simplified reporting requirements.

In the Regulations a small employer in the private sector is defined as one with at least 50 but fewer than 100 employees. In the broader public sector a small employer is an organization with at least 10 but fewer than 50 employees.

Geographic Area

In developing an employment equity plan, employers will examine the make-up of their workforces in particular communities. A **geographic area** means the boundaries of a community for employment equity planning purposes as determined by census data.

The federal government uses the same areas in compiling statistical information for employers under the Federal Contractors Program. A

number of Ontario employers are already implementing employment equity under this program, as a condition of securing federal contracts. A co-ordinated federal-provincial approach will maximize efficiency for employers and both government programs.

The Regulations also provide an employer with the option of combining two or more geographic areas, if the employer has fewer than 50 employees in each area. The combined areas are then considered to be one geographic area for employment equity purposes. Employers and bargaining agents representing employees will jointly decide whether to do this.

Occupational Group

Employers will also look at the different occupational groups in their workforces. The Regulations indicate how to determine the occupational group into which a particular job falls.

There are 14 **occupational groups** used for employment equity. Employers will use the National Occupational Classification system to classify jobs, and will then group them into the occupational groups. The procedure for determining the occupational group of a specific job is explained in two standard resource materials produced by the federal government.

This is the same method the federal government uses for classifying occupations under its Federal Contractors Program. Again, a consistent approach will increase efficiency for employers.

Salary Group

Section 5 of the Regulation explains how employers with 500 or more employees compile information on salary groups for their employment equity reports. A **salary group** is calculated by taking the salaries of the highest-paid and lowest-paid employees in an occupational group and finding the difference. This difference is then divided into four equal salary ranges for the occupational group. Each of the four ranges is a salary group.

2. The Workforce Survey

Putting employment equity into action will involve conducting a **workforce survey**. The purpose of the survey is to get a profile of an employer's workforce, so that the employer knows how many members of designated groups are in the organization at a particular time.

Where employees are represented by a union, conducting the workforce survey is a joint responsibility of the employer and the bargaining agent. Otherwise employers are responsible for the survey, and must consult with employees before it is conducted.

The Questionnaire

To get the workforce profile, a questionnaire will be given to all employees, asking them to state whether or not they are members of a designated group. The four questions to be asked in all questionnaires are listed in Schedule 1 of the Regulation.

Each employee is provided with a questionnaire in order to indicate whether or not he/she is a member of a designated group. This self-identification is the best way to find out who is a member of a designated group in a workplace, while respecting individual privacy. All employees will have the right to decide whether or not to fill out the questionnaire.

Section 7 of the Regulation says that the questionnaire must include a notice underlining the employee's right to answer the questions or not, the employee's obligation to return the questionnaire and the fact that the questionnaires themselves remain confidential. The form will also point out that people can belong to more than one designated group.

While employers have the option of including additional questions on employment equity in the questionnaire, the form must make it clear that the additional questions are not required by the Act and that, as with the other questions, employees do not have to answer them.

It is important for employers and bargaining agents to explain to workers why the survey is an essential part of achieving employment equity. This will encourage a higher, more accurate employee response rate. Employers and bargaining agents will assist workers who need help to understand and complete the questionnaire. Shortly after the Act takes effect, the Employment Equity Commission is scheduled to issue a Guideline on conducting a workforce survey.

Previous Surveys

Some employers — for example, those who have had voluntary employment equity programs — might have already gone through the process of conducting a workforce survey. Under section 6 of the Regulation, these employers will not have to do another survey while preparing their initial plan if three conditions are met:

- the survey findings are up to date
- the results of the previous survey would likely be as accurate as those in a new one
- the previous survey gave employees the choice of indicating whether or not they belong to a designated group.

Bargaining agents will work jointly with employers to determine if these conditions have been met. If the two parties cannot agree, either of them can ask the Employment Equity Commission for an opinion on whether a previous survey meets the conditions. And, of course, either party can apply to the Employment Equity Tribunal to determine whether or not a previous survey can be used.

Where employees are not represented by a bargaining agent, the employer will notify the Employment Equity Commission if a previous survey is being used as the basis for an initial employment equity plan.

Workforce Profile

After the survey has been completed, the employer will tabulate the information in the questionnaires. The next step will be to sketch the workforce profile, using the compiled information.

Section 11 of the Regulation explains how to create the profile. Large employers will look separately at each of their occupational groups. They will also look at each geographic area in which their workforce is located. Using the results of the questionnaires, they will determine how many women, Aboriginal people, people with disabilities and members of racial minorities are in each occupational group in each geographic area.

Small employers do not compile data on occupational groups and geographic areas. To get their profile, they simply tally up how many members of each designated group are in their workforce.

The workforce profile, once completed, must be kept up to date. For example, new employees must have an opportunity to complete the workforce survey questionnaire. Employees who want to change the

information they provided in the original survey will be able to fill out a new form. Records will show if people leave their jobs. And large employers will keep track of changes like promotions and transfers from one occupational group to another.

As a result, when it's time to review and revise an initial plan, employers will have the data ready to both measure progress and set appropriate goals and timetables for their next employment equity plan.

New Surveys

Under section 13, employers will be required to do a new survey every nine years.

3. Identifying the Barriers

The heart of employment equity is removing barriers and treating people fairly in the workplace. Barriers restrict many members of the designated groups to low paying jobs with few advancement opportunities, and sometimes exclude them from the job market entirely — despite their abilities and skills. This is a waste of our most valuable resources — our human resources.

Once the workforce survey is completed and the profile developed, employers will have a picture of who is in their workforce and what types of work they do. At this point it may be apparent who is missing from the picture.

The next step is to look at the organization's employment policies and practices to see if any of them are barriers to equitable treatment of members of the designated groups. This may indicate why the workforce profile looks the way it does.

While some barriers may be deliberate, most are unintentional, and very often they are hidden. In many cases, practices and policies built into the system over time have become barriers. Often employers and employees think of these **systemic** barriers as "just the way we do things". Even though they may be unintentional, these barriers can have just as damaging an effect as deliberate discrimination.

Here are a few workplace practices that could be systemic barriers:

- height and weight restrictions that have nothing to do with the job, but tend to keep women and some racial minorities from being considered for certain types of work
- physical barriers to wheelchair access to the workplace
- requiring Canadian experience when it is not necessary to do the work.

Review of Policies and Practices

To identify barriers, employers will begin by examining the employment policies and practices covering their workforce. Where employees are represented by a union, this is a joint responsibility of the employer and the bargaining agent. Employers will consult with unrepresented employees about the review.

Both large and *small employers* will examine their policies and practices, including the way they recruit, hire, keep, treat and promote employees. Large employers will ensure that their review covers the following policies and practices:

- how they recruit job applicants, select candidates and hire them
- how they promote employees and move them between occupational groups in the employer's workforce
- how workers are trained and developed, and who gets these opportunities
- the way employees are evaluated on how well they do their jobs
- how decisions are made to fire or lay off employees, and how they are treated if they choose to retire or resign
- the system for deciding who gets what salaries and benefits
- how the special needs of designated groups are accommodated
- other conditions of employment, or ways of treating employees.

Determining Barriers

After employers (and bargaining agents) have taken a close look at the policies and practices, they must then determine if any of them act as barriers to equitable treatment of the members of the designated groups. Information on identifying barriers, with examples and explanations, will be included in a Guideline scheduled to be released by the Employment Equity Commission in the fall of 1994.

Seniority Rights

The *Employment Equity Act* provides that seniority rights concerning lay-off or recall to work after lay-off will not be considered barriers to employment. In addition, other seniority rights will not be considered barriers unless a board of inquiry under the *Ontario Human Rights Code* rules that those rights discriminate against members of a designated group.

Previous Reviews

Those employers who have already reviewed their employment policies and practices will not have to conduct another review if two conditions are met:

- the results of the earlier review are up to date
- a new review would likely produce the same results as the old one.

As with the workforce survey, employers and bargaining agents will jointly decide if the previous review meets these standards. If the two parties cannot

agree, either of them can ask the Employment Equity Commission for an opinion or, alternatively, may apply to the Employment Equity Tribunal to determine the issue.

Where employees are not represented by a union, the employer will notify the Employment Equity Commission if a previous review is being used.

4. The Employment Equity Plan

After the workforce profile has been examined and the barriers to employment identified, decisions need to be made on how to remove the barriers and ensure equitable treatment in the workplace. This approach will constitute an **employment equity plan**, which will include goals and timetables and last for three years.

Preparing the plan is the joint responsibility of the employer and the bargaining agent, except where employees are unrepresented, in which case the plan is the employer's responsibility. Employers will consult with unrepresented employees in developing the plan. The Employment Equity Commission is scheduled to release a Guideline on employment equity plans in early 1995.

The *Employment Equity Act* sets the standard that a plan must meet: "reasonable progress" toward achieving the principles of employment equity. One of these principles is that members of the designated groups have the right to be considered for jobs, hired, retained, treated and promoted at work without having to face unfair barriers. Another is that, over time, an employer's workforce should reflect the representation of the designated groups in the community.

Developing the Measures

The Regulations describe what goes into a plan. For example, a plan will list which barriers will be removed under the current plan. Each plan will also describe the measures for promoting equitable treatment for the designated groups and the timetables for implementing and monitoring them.

These measures include:

- **action to eliminate barriers** — for example, eliminating height and weight requirements unrelated to the job
- **positive measures** to help members of designated groups secure equitable treatment in the workplace — for example, mentoring or bridging programs
- **ways to accommodate** — for example, providing a work-related technical device that would enable a person with a disability to do the job
- **supportive measures** that benefit all employees — for instance, flexible working hours
- **anti-harassment policies** and **anti-discrimination policies** that would improve the working environment for all employees.

The plan will also describe the employer's process for consulting on employment equity with employees not represented by a union; summarize their comments; and indicate how the employer has responded to the issues raised.

Setting Numerical Goals

Employment equity plans — except for small employers' plans — will also contain **numerical goals** for making the workplace more representative of the community.

Ontario workplaces vary greatly, and different employers face different circumstances. For this reason, employers set their own numerical goals and the timelines for achieving them. Where employees are represented by a union, these are determined jointly by the employer and the bargaining agent.

Section 18 defines a numerical goal as the **proportion of job openings** in an occupational group that an employer targets for members of the designated groups. Job openings include new hirings and promotions, as well as transfers from one occupational group to another.

A large employer's plan will set a numerical goal for each designated group in each occupational group in the employer's workforce. Employers with various locations in Ontario will establish numerical goals for each geographic area covered by the plan. Employers do not set numerical goals for **seasonal employees** or **seasonal job opportunities.**

Small employers do not set numerical goals.

Large employers set numerical goals — customized to the unique circumstances of the workplace — based on three factors outlined in Section 19:

- **underrepresentation** of designated group members — or the gap between the proportion of members of each of the designated groups in the employer's workforce and the proportion of members of the designated groups in the community's working age population.
- **availability inside** — the number of members of each designated group working for the employer who have the skills for or could be trained for job openings likely to occur over the three-year life of the plan.
- **availability outside** — the number of designated group members outside the organization with the skills for the employer's occupational groups.

To determine relevant availability outside the organization, large employers will look at the proportion of designated group members among people who:

- are in the **working age population** in the geographic area
- are in the **occupational group** in the geographic area
- have the necessary **skills** to work in the occupational group and are in the geographic area
- are **graduating** from training and education programs in Ontario that give them the necessary skills
- are in any **other group** for which the Employment Equity Commission provides information.

The Employment Equity Commission will have this data available.

For some occupations, it is the usual practice to recruit staff from a larger geographic area than the community where the employer is located. For example, some organizations may regularly search across the province for candidates in very specialized scientific careers. In this case, data from the larger geographic area may be used to compute the number of people already working in the occupational group or having the skills to do so.

By going through the steps outlined above, employers will determine the proportion of potentially qualified members of designated groups likely to be available for job openings over the three-year term of the plan. This will help employers set realistic goals.

5. Reviewing and Revising the Plan

Before the three-year plan is up, the employer will review the progress that has been made in implementing the plan. The plan will then be revised, using up to date information, and put into action for the next three years. Employers and bargaining agents representing employees will review and revise the plan as a joint responsibility. The revised plan will include details on how the review took place.

The new plan will include measures to remove remaining barriers and revise workplace practices, as well as the schedule for carrying them out. Large employers will also set new numerical goals. If numerical goals in the previous plan were not achieved, the new plan will indicate the steps to be taken to address this.

6. Certificates

The main way employers will provide information to the Employment Equity Commission, which is responsible for monitoring employment equity across the province, is through a **certificate** signed by the employer's chief executive officer or equivalent. This document will confirm that the requirements of the legislation have been met, include statistics on the workforce profile, and indicate where the Commission can obtain a copy of the employer's full report on the plan. (Part 11 of this overview deals with reports.) A new certificate is required each time a plan is revised, which means every three years.

Under the Act, the Commission is to produce an annual report on the progress made toward achieving employment equity in Ontario. The certificates sent to the Commission will provide an important source of data and information needed to prepare this public document.

First Certificate

The first certificate is sent to the Commission within six months after an initial plan begins. It will confirm that the employer has:

- provided employees with the information and completed the consultations required by the Act
- conducted a workforce survey
- reviewed employment policies and practices
- prepared an employment equity plan and report.

Small employers will indicate the number of employees in the workforce, and the number of members of each designated group in the workforce.

Large employers will also provide:

- the number of employees in each occupational group
- the number of members of each designated group in each occupational group
- the plans for removing barriers and improving workplace practices.

Later Certificates

Employers will send a new certificate to the Commission within six months after a revised plan comes into effect. This will confirm that the employer and any bargaining agent representing employees have reviewed the previous

plan and revised it, and that the employer has prepared the report required at the end of the previous plan.

Subsequent certificates will compare the workforce profile at the beginning of the new plan with the profile three years earlier. This comparison will highlight the progress that has been made in making the workplace more representative of the community.

Small employers will list the total number of employees and the number of designated group members when the previous plan began as well as when the current plan began. Large employers will indicate the number of employees and designated group members working in each occupational group at the beginning of both plans.

Large employers will also include information about their efforts to carry out the previous plan and the results achieved. For each occupational group, they will indicate the number of job openings that were filled under the previous plan and the number filled by designated group members. This is another indicator of the progress that has been made. In addition, large employers will describe the measures taken under the previous plan, as well as the measures to be undertaken in the revised plan.

7. Joint Responsibilities

Joint responsibility is a unique feature of employment equity in Ontario. Under the Act, employers and bargaining agents are jointly accountable for completing the steps in the employment equity planning process.

Where employees are represented by a single bargaining agent, the employer and the bargaining agent will set up a process to carry out their employment equity responsibilities. If there is more than one bargaining agent, the employer and the bargaining agents will form a **joint co-ordinating committee** to establish the process for co-operation.

Section 25 of the Regulation stipulates that employers and bargaining agents will begin work on the process for collaboration at least 12 months before the employment equity plan has to be completed. This timeframe applies whether there is one bargaining agent or more than one.

On the joint co-ordinating committee, each bargaining agent is entitled to have one member for each unit of employees it represents. The same individual can represent two or more bargaining units if the bargaining agents representing those units agree. Under the Act, the employer can have as many representatives on the joint committee as there are bargaining agent representatives.

The joint co-ordinating committee may decide a number of preliminary matters. For example:

- whether to prepare one employment equity plan or more than one
- whether to subdivide the workforce in each plan (for example, based on company structure or geographical areas) and how to do so.

Section 28 provides that the bargaining agent will consult with the workers it represents who are members of the designated groups. If the bargaining unit doesn't include any members of a particular designated group, the bargaining agent will ask the Employment Equity Commission for information on how to address that group's concerns. The same applies if no members of a particular designated group participate in the consultations.

Under the Act, employers are obliged to provide bargaining agents with all information needed to carry out their joint responsibilities. Section 29 of the Regulation specifically provides that employers must supply bargaining agents with initial and subsequent reports on employment equity plans, and any order of the Employment Equity Commission or the Employment Equity Tribunal respecting employees represented by the bargaining agent.

Bargaining agents will also have access to the workforce survey results compiled by the employer from the questionnaires. The questionnaires themselves are confidential. Also, to protect privacy, any reference to from "one" to "four" members of a designated group will be changed to read "less than five" members before compiled information is given to the bargaining agent.

Time during the regular work day that an employee spends in the employment equity process is considered work time, for which the employee will be paid at the usual rate.

Information on joint responsibilities will be included in a Guideline the Employment Equity Commission is scheduled to release shortly after the Act becomes effective.

8. Consulting Unrepresented Employees

If it's to work, employment equity will require all parties in the workplace to plan and take action together. Many organizations and industries have a long history of active worker participation on issues such as occupational health and safety. This kind of experience is a foundation employment equity can build on.

Workers not represented by a union will also participate in making employment equity happen. The employer will set up a process to consult directly with these employees about the workforce survey, the review of policies and practices, and the employment equity plan.

Section 31 of the Regulation makes clear that these consultations will give employees the chance to identify barriers and comment on the proposed plan. In addition, employees who are members of the designated groups must be included in the process. If there are no workers being consulted from a particular designated group, the employer will ask the Commission for information on how to address that group's concerns.

Information on employee consultations will be included in a Guideline which is scheduled for release in the fall.

As a basis for the consultations, the employer will make the following information readily accessible to employees:

- a description of the consultation process
- the results of the workforce survey
- a summary of the findings of the review of employment policies and practices
- measures proposed to eliminate barriers.

Employers can make this information accessible either by posting it in the workplace, or by posting a notice telling employees where in the workplace they can see it. Any reference to "one" to "four" members of a designated group must be changed to "less than five" members before the information is released.

Time that an employee spends participating in consultations on employment equity is considered work time, for which the employee will be paid at the usual rate.

9. Communicating Employment Equity to Employees

Because the success of employment equity depends on employee understanding, the Regulations outline how employers can ensure that employees have a chance to learn about it at key stages during the process. This is a joint responsibility of employers and bargaining agents where workers are represented by a union.

The first step is to inform employees about the principles of employment equity before the process in the workplace begins.

Then, the employer (and any bargaining agents) must explain the process, which includes taking the workforce survey, reviewing employment policies and practices and preparing the plan.

For the information of employees, all employers will post the following items in the workplace:

- the summary of the *Employment Equity Act* and Regulations provided by the Employment Equity Commission
- a summary of the consultation process for each employment equity plan
- a description of the employer's process for monitoring the measures, timetables and numerical goals in each plan
- a copy of certificates filed with the Employment Equity Commission.

In addition, employers will ensure that employees have access to:

- a copy of the employment equity plan that covers the employees
- reports on the plan
- orders of the Employment Equity Commission or the Employment Equity Tribunal concerning the plan.

10. Keeping Records

Employers will keep records on the employment history of employees and whether or not they are members of a designated group. Large employers will also keep records of which occupational group employees are in.

These records must be kept up to date, and only people responsible for carrying out the employer's obligations under the *Employment Equity Act* will be allowed to see them.

In addition, every employer will keep a copy of the employment equity plan and the information used to develop the plan for three years after the plan is finished (six years in all). The workforce survey questionnaires and related information are kept until the next workforce survey (nine years).

11. Preparing Reports

Once an initial plan has been prepared, employers compile a report highlighting the measures in the plan and providing information on the workforce profile as a basis for tracking progress. After the three year plan is up, employers prepare a new report outlining the actions taken during that period and presenting an up to date picture showing how the workforce profile has changed.

Since employment equity affects about 17,000 Ontario employers, the Employment Equity Commission cannot examine all reports. Therefore, most employers will keep their reports on file and send them to the Commission only on request.

The exceptions to this rule are the Ontario Public Service — including some provincial agencies, boards and commissions — as well as municipalities, universities, colleges, school boards and hospitals having 50 or more employees. These public sector organizations will provide a copy of their initial and later reports to the Commission.

First Report

Employers have six months after an initial plan begins to prepare an initial report.

In the first report, both large and *small employers* will indicate the number of workers who returned a workforce survey questionnaire before the plan took effect, and the number of questionnaires with the required questions completed. All employers will also outline the measures in the plan to remove barriers and improve workplace practices, as well as any other information they consider relevant.

In their first reports, *small employers* will also state the total number of employees covered by the plan, and the number of members of each designated group when the plan began.

Large employers will include more detailed information on the status of the workforce when the plan took effect. They will also break down this information by geographic area.

The following data are to be presented for each geographic area covered by a large employer's plan:

- the number of workers in each occupational group — and the number of members of each designated group working in the occupational group
- the number of permanent full-time, permanent part-time, term and seasonal employees — and the number of members of each designated group in these categories.

Employers with 500 or more workers will also include data on the number of employees and designated group members in four salary groups (or quartiles) in each occupational group. The purpose is to see if designated group members are concentrated in lower-paying jobs, or if they are evenly represented throughout the occupational group.

End-of-Plan Reports

After the initial three-year plan expires, the employer will put together a report showing what has been accomplished. This report will be completed within six months of the expiry date of the initial plan. Likewise, the employer will compile an end-of-plan report on each subsequent plan, within six months of its conclusion. This means that an employer will prepare a report every three years.

In the end-of-plan reports both large and *small employers* will describe the measures taken to remove barriers and improve workplace practices. As in the first report, they will indicate the number of workers who returned a workforce survey questionnaire before the plan took effect, and the number of questionnaires completed. In addition, the end-of-plan reports will provide data to chart the progress of employment equity.

Small employers' reports will show the total number of employees covered by the plan and the number of members of each designated group — at the beginning and end of the plan.

The end-of-plan reports for large employers will include the following information for each geographic area:

- the numerical goals set out in the plan
- the number of employees in each occupational group, and the number of members of each designated group — at the beginning and end of the plan
- the number of permanent full-time, permanent part-time, term and seasonal employees, and the number of designated group members in these categories — at the beginning and end of the plan

- the number of job openings in each occupational group during the three years of the plan, and the number filled by designated group members
- the number of people no longer employed in each occupational group and the number of designated group members among those individuals.

Employers can include any other information they think is relevant. In addition, as with the first report, employers with 500 or more workers will provide data on salary groups in their subsequent reports.

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News Release
Communiqué

Ministry of Citizenship
Ministère des Affaires civiques

77 Bloor Street West Toronto ON M7A 2R9
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FOR IMMEDIATE RELEASE
JUNE 29, 1994

EMPLOYMENT EQUITY TO TAKE EFFECT ON SEPTEMBER 1, 1994

TORONTO -- Ontario Minister of Citizenship Elaine Ziemba today announced that Ontario's Employment Equity Act will come into effect on September 1, 1994. She also released regulations outlining how employment equity will be implemented in Ontario workplaces.

"The heart of employment equity is removing barriers and ensuring fair treatment in the workplace," Ms Ziemba said. "With the release today of the regulations, after a year of consultations, employers, unions and employees will have the summer to examine them and begin to consider how to work together to set up processes to ensure an orderly and efficient implementation of employment equity."

Implementation will be phased in, with staggered timetables for employers in various sectors and of different sizes. The Ontario Public Service will lead the way, with an employment equity plan in place by September 1, 1995. Employers with more than 10 employees in the broader public sector -- including municipalities, universities, colleges, school boards, and hospitals -- will have until March 1, 1996 to have their employment equity plans in place.

Large private-sector employers with more than 500 employees have until March 1, 1996 to develop their plans. Companies with 100 to 499 employees have until September 1, 1996 to develop their employment equity plans. Small private-sector employers with 50 to 99 employees will have until September 1, 1997 to reach this stage.

Within these timeframes, employers will survey their workforces to determine how many members of the designated groups -- women, Aboriginal people, people with disabilities and racial minorities -- are in their workplaces. Employers will also review policies and practices to identify barriers to equity in their workplaces and then develop plans to remove those barriers.

Private-sector employers with fewer than 50 employees and Broader Public Sector employers with fewer than 10 employees are not covered by the requirements of the Act.

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The Act, which sets out the principles, objectives and main features of employment equity, is accompanied by regulations outlining the practical steps needed to make employment equity a reality in Ontario workplaces. Seasonal agricultural workers, including those employed under federally administered international programs, are exempt from the Act. Discussions and consultations will continue with Aboriginal organizations and with the construction industry to develop regulations that respond to the particular circumstances of those workforces.

In June 1993, a Draft Regulation was released for extensive consultation with representatives of business, labour and the designated groups. As a result of those consultations, clarifications have been provided in the regulations regarding the joint responsibilities of employers and unions, reporting requirements for employers in the broader public sector and the conditions under which previous workforce surveys can be used.

September 1, 1994, will mark the launch of the Employment Equity Commission as an independent, arm's-length agency. It will play a critical role in the efficient implementation of employment equity in Ontario workplaces, assisting employers, unions and employees in the implementation of the Act and regulations. It will provide how-to materials and statistical information to help employers break down barriers and create fairer workplaces. It will also monitor employers' progress under the legislation.

Juanita Westmoreland-Traoré, who was appointed Employment Equity Commissioner in 1991, will head the Commission.

The Employment Equity Tribunal, which will also be established in the Fall, will ensure compliance with the Act by mediating and adjudicating cases brought before it, and reviewing and enforcing orders of the Commission. Under the Act, the Tribunal has been given the power to levy fines of up to $50,000 for non-compliance. Recruitment for the Chair of the Tribunal is under way.

"I am proud to have reached this milestone on the road towards the fair treatment and equitable participation of all Ontarians in the province's social and economic life," Ms Ziemba said.

An information package on the regulations, which includes a plain language guide to the regulations, is available by calling: in Toronto, 326-6224, TTY 326-1778; from outside of Toronto, 1-800-268-5737, TTY 1-800-387-4456.

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Questions and Answers on Employment Equity in Ontario

June, 1994

1. When will the *Employment Equity Act* come into effect?

Ontario's *Employment Equity Act* and its accompanying Regulations become effective on September 1, 1994. At the same time, the Employment Equity Commission will be formally established as an independent, arm's-length agency with a mandate to assist and monitor employment equity in Ontario.

2. How will employment equity be implemented?

There are four basic steps in the employment equity planning process:

- informing employees about employment equity principles and process;
- surveying the workforce to determine how many women, Aboriginal people, people with disabilities and members of racial minorities are in the workplace;
- reviewing workplace polices and practices to identify barriers facing the designated groups; and
- developing a plan to remove barriers and make reasonable progress towards achieving employment equity.

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3. How much time will employers have to complete these steps?

Different types and sizes of employers will have different timeframes:

- provincial government ministries and some agencies, boards and commissions will have until September 1, 1995, or one year from the effective date;
- broader public sector employers — including municipalities, universities, colleges, school boards and hospitals — with 10 or more employees will have until March 1, 1996;
- private-sector employers with 500 or more employees will have until March 1, 1996;
- private-sector employers with 100 or more employees but under 500 will have until September 1, 1996;
- private-sector employers with 50 or more employees but under 100 will have until September 1, 1997.

4. How many employers are covered by the legislation?

About 17,000 employers in Ontario — affecting about three-quarters of the workforce — are covered by the *Employment Equity Act*. Employers who do **not** have obligations under the Act include those in the private sector with under 50 employees; those in the broader public sector with under 10 employees; and police forces under the *Police Services Act*, which has its own employment equity regulations.

Employers in federally regulated industries — banks, for example — are not covered by Ontario's legislation.

5. Are there different requirements for small employers?

Small employers are responsible for informing employees about employment equity, conducting a workforce survey, identifying barriers and developing employment equity plans. But they do not set numerical goals, and they have simplified reporting requirements.

A small employer is defined in the Regulation as a private sector employer with at least 50 but under 100 employees or a broader public sector employer with at least 10 but under 50 employees.

6. What role do unions play in employment equity?

Where employees are represented by unions, employers and bargaining agents will plan employment equity as a joint responsibility. This is a unique and important feature of employment equity in Ontario. Joint responsibilities include communicating with employees, conducting the workforce survey, reviewing employment policies and practices and developing and revising the employment equity plan.

Employees not represented by unions will also participate in the process. The employer will consult with these workers on the workforce survey, the review of policies and practices, and the employment equity plan.

7. What is the connection between the Act and the Regulations?

The Act sets out the principles, objectives and main features of employment equity, while the Regulations outline the practical steps and activities needed to implement employment equity in Ontario workplaces.

8. How were the Regulations developed?

The Regulations, like the Act itself, are the result of extensive consultation involving employers, labour unions, designated group representatives and human resources experts. In June, 1993, a Draft Regulation was released for consultation, and more than 60 submissions were received in response. In addition, the Draft Regulation was discussed in 80 submissions to a legislative committee during hearings on the Act. The government considered this input in developing the Regulations package released in June, 1994.

9. How will employers, unions and employees be assisted in implementing employment equity?

The Act and the Regulations set out legal obligations and indicate what must be done. The Employment Equity Commission will provide information and materials to assist employers, unions and workers in fulfilling these legal obligations. For example, the Office of the Employment Equity Commissioner (OEEC) will provide an introductory booklet designed for use leading up to proclamation of the legislation. It will help employers and, where applicable, unions to determine how the Act will apply to their workplaces. And, when the Act takes effect on September 1, 1994, the Commission is scheduled to release the first in a series of Guidelines that will provide detailed information as well as examples of employment equity in practice.

10. Some Ontario employers already have employment equity plans under the Federal Contractors Program. How will they be affected?

Officials from the OEEC, the Ministry of Citizenship and Human Resources Development Canada have been working together so that employers covered by the federal program and Ontario's legislation can focus their resources on achieving results. In defining geographic areas for employment equity purposes, Ontario has adopted the areas the federal program uses in compiling data to assist employers. Ontario is also using the same system the federal initiative does for classifying occupations. These examples reflect a commitment to promote efficiency and further co-ordination.

11. Will employers who have voluntary employment equity programs have to start over?

Employers who have already conducted a workforce survey or reviewed their employment policies and practices will not have to repeat these efforts, if the previous survey or review meets the conditions set out in the Regulation. Bargaining agents and employers will jointly decide if the conditions have been met. If they cannot agree, either party can ask the Employment Equity Commission for an opinion, or may apply to the Employment Equity Tribunal to determine the issue.

12. What is the Employment Equity Tribunal?

The Act establishes the Employment Equity Tribunal as an adjudicative body. The Tribunal will have the power to make decisions on complaints and disputes under the Act, mediate cases and hear appeals from orders of the Commission. The recruitment of the Chair of the Tribunal is under way.

13. What is the status of Regulations on employment equity in Aboriginal workplaces?

Discussions are being held between Ministry officials and representatives of Aboriginal organizations regarding the application of employment equity to Aboriginal workplaces. To allow time for these discussions to continue, and to develop a special regulation for these workplaces in keeping with the Statement of Political Relationship, the effective date of the legislation for Aboriginal workplaces is delayed for a one-year period.

14. What is the status of Regulations on employment equity in the construction industry?

The Ministry of Citizenship will consult with relevant parties in the construction industry, including trade unions, contractors' associations, and designated groups working in this industry, so that there is an appropriate application of employment equity for this sector. To allow time for the development of a special regulation for this industry, the dates for completion of employment equity plans in the construction industry have been set one year later than for other employers.

15. Are seasonal employees covered under the Employment Equity Act and Regulations?

Yes. Seasonal employees are included in the workforce survey, the review of policies and practices, and measures to remove barriers in an employment equity plan. But numerical goals are not set for seasonal employees or seasonal job openings.

16. What about seasonal agricultural workers?

Because of the nature of seasonal agricultural work, and because of the special requirements of federal programs affecting off-shore workers in the agricultural industry, the Regulations provide that seasonal agricultural employees are exempt from the provisions of the *Employment Equity Act.*

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A Backgrounder On

The Employment Equity Commission

June, 1994

In its first Speech from the Throne in November 1990, the government of Ontario stated its intention to introduce employment equity legislation. In March, 1991, it announced the appointment of Juanita Westmoreland-Traoré as Ontario's first Employment Equity Commissioner.

Since then, Ms Westmoreland-Traoré has met regularly with representatives of business, labour and the designated groups, held extensive public consultations on key policy and implementation issues throughout the province, and established an advisory committee on public education. The input from the Commissioner's consultations contributed significantly to the development of the *Employment Equity Act* and Regulations.

Role of the Commission

The Employment Equity Commission will be formally established as an independent, arm's-length agency reporting to the Minister of Citizenship upon proclamation of the legislation on September 1, 1994. It will play a critical role in the orderly and effective implementation of employment equity.

The *Employment Equity Act* sets out the functions of the Commission:

- Provide public education to promote understanding and acceptance of employment equity
- Offer assistance to employers, employees and unions to comply with the Act
- Conduct research and develop policy
- Engage in public consultations

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- Further the principles of employment equity
- Monitor the implementation of employment equity, and
- Conduct audits to ensure compliance with the Act.

The Commission will provide how-to materials as well as technical and statistical information to help employers and bargaining agents implement employment equity. It will also monitor employers' progress through audits of employment equity plans. The Act gives the Commission the power to order steps to be taken to comply with the legislation.

The Act requires the Commission to report annually on its activities to the Minister of Citizenship. The report must include data and information on the progress made toward achieving employment equity in Ontario.

Moving Towards Implementation

To help employers, unions and affected employees prepare for the implementation of employment equity, the Office of the Employment Equity Commissioner will provide an introductory booklet designed for use leading up to proclamation of the legislation. It will help employers and, where applicable, unions to determine how the *Employment Equity Act* will apply to their workplaces, explaining the steps that those parties who want to get a head start can take. And, it will outline the Employment Equity Commission materials and supports that will be available to employers, unions and employees.

Commission Guidelines

Work is well under way on the development of a series of Guidelines to help employers, bargaining agents and employees comply with the requirements of the Act and Regulations.

These Guidelines will explain legislative and regulatory requirements and provide suggestions and best practices to implement employment equity. They are also intended to help employers, bargaining agents and employees develop their own customized approach that meets their own specific needs.

Several Guidelines are scheduled to be released when the Act becomes effective on September 1, 1994. They will deal with how employers and bargaining agents can jointly participate in the process in their workplaces, how non-unionized employees will be involved, how to conduct a workforce survey, and methods of collecting and maintaining workforce data.

Provincial/Federal Co-operation

Some Ontario employers have already introduced employment equity in their workplaces under the Federal Contractors Program administered by Human Resources Development Canada.

Officials from the Office of the Employment Equity Commissioner, the Ministry of Citizenship, and Human Resources Development Canada have developed a working relationship so that employers under the federal program covered by the Ontario legislation can focus their resources on achieving results. For example, in defining geographic areas for employment equity purposes, Ontario will use the same areas the federal program uses in compiling data to assist employers. This example reflects a commitment to promote efficiency and further co-ordination.

Other Services and Materials

The Office of the Employment Equity Commissioner, through its public education program, has been conducting training workshops, distributing information packages, operating an information hotline, and maintaining an active public speaking schedule. It provides a regular newsletter, has developed a video and distributed posters to thousands of Ontario workplaces.

After September 1, 1994, the Employment Equity Commission will offer services and materials to assist in the implementation of employment equity in Ontario. These will include a range of services as well as software and statistical data.

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Highlights of Ontario's Employment Equity Regulations

June, 1994

The Regulations package under the *Employment Equity Act* outlines the practical steps and activities required to make employment equity a reality in Ontario workplaces. It describes, for example, how employers are to approach the four basic steps in planning employment equity:

- informing employees about the employment equity principles and process;
- surveying the workforce to determine how many members of the designated groups — Aboriginal people, people with disabilities, members of racial minorities and women — are in the workplace;
- reviewing workplace policies and practices to identify barriers facing the designated groups; and
- developing a plan to remove barriers and make reasonable progress towards a workforce that reflects the community.

There are modified requirements for **small employers**. In the Regulation, a small employer in the private sector is defined as one with at least 50 but fewer than 100 employees. In the broader public sector — for instance, municipalities or social service agencies — a small employer is an organization with at least 10 but fewer than 50 employees.

The *Employment Equity Act* and its accompanying Regulations come into effect on September 1, 1994. There is a phased-in implementation of employment equity, with different types and sizes of employers having different timeframes to complete the basic four-step planning process.

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Joint Responsibility

Where employees are represented by unions, employers and bargaining agents will undertake employment equity as a **joint responsibility**. This is a unique feature of the Ontario legislation, and various sections of the Regulation specify how joint responsibility is to be effectively managed for unionized workers. Employers and bargaining agents have joint responsibility, for example, in communicating with employees on employment equity, surveying the workforce, reviewing employment policies and practices, and developing and revising employment equity plans.

Consultations with Unrepresented Employees

Employees not represented by unions will also participate in the process. The employer will consult with these workers on the workforce survey, the review of policies and practices, and the employment equity plan.

Communicating with Employees

Since the success of employment equity depends on employee understanding, employers and bargaining agents are responsible for giving all employees information about the employment equity process at various phases of implementation. The Regulation sets out the details of how employers and bargaining agents are to do this. For example, employees will be informed about the principles of employment equity before the implementation process in the workplace begins.

Surveying the Workforce

As a basis for planning, employers and bargaining agents will conduct a **workforce survey** to find out who is in the workforce when the process begins, to get an indication of the representation of designated group members in the workplace.

Employees will receive a questionnaire asking if they are members of a designated group. The questionnaire will make clear that an individual can be a member of more than one designated group. This approach — self-identification — is the best way to determine who is a member of a designated group in a workplace, while respecting individual privacy. Employees have the right to decide whether or not to fill out the questionnaire, although all questionnaires must be returned.

The questionnaires are then used by the employer to produce the **workforce profile** — which indicates the extent to which designated group members are present in the employer's workplace.

To produce their profile, *small employers* tally up the number of members of each designated group employed in their total workforce. *Large employers* produce a more detailed profile, showing the number of designated group members in each occupational group in each geographic area where they work.

Reviewing Policies and Practices

The next step in the employment equity process is to identify barriers facing the designated groups in the workplace. **Barriers** are rules, practices or conditions in the workplace that adversely affect members of a designated group more than other people. The existence of barriers may explain why the workforce profile looks the way it does.

To identify barriers, employers and bargaining agents review the way employees are recruited, hired, promoted, treated and retained in the workforce. Then, they determine if any of these policies and practices act as barriers.

Examples of possible barriers are:

- height and weight restrictions that are unrelated to the job and therefore tend to exclude women and certain racial minorities
- physical barriers to wheelchair access to the workplace
- requiring Canadian experience when it is not necessary to do the work.

The *Employment Equity Act* provides that seniority rights concerning lay-off or recall to work after lay-off are not considered barriers to employment.

The Employment Equity Plan

Employers prepare a three-year **employment equity plan** customized to their own circumstances. Preparing the plan is a joint responsibility of employers and bargaining agents, and unrepresented employees must be consulted about an employer's proposed plan.

Each plan will contain measures to advance equitable treatment for the designated groups, as well as the timetables for implementing and monitoring them. These measures include:

- **actions to eliminate barriers** — for example, eliminating height and weight requirements unrelated to the job

- **positive measures** to help members of designated groups secure equitable treatment in the workplace — for example, mentoring or bridging programs
- **accommodation measures** — for example, providing a work-related technical device that would enable a person with a disability to do the job
- **supportive measures** that benefit all employees — for instance, flexible working hours
- **anti-harassment policies** and **anti-discrimination policies** that would improve the working environment for all employees.

Large employers' plans contain **numerical goals** for making the workforce more representative of the community, and timelines for achieving this.

A numerical goal is the proportion of **job openings** in an occupational group that an employer targets for members of a particular designated group. Job openings include new hirings and promotions, as well as transfers from one occupational group to another. A large employer's plan will contain a numerical goal for each designated group in each occupational group in the employer's workforce. Employers with more than one location in Ontario will establish separate goals for each geographic area covered by the plan.

In setting goals, employers and bargaining agents will consider a number of factors. They will begin by looking at the degree of underrepresentation — that is, the gap between the proportion of members of each of the designated groups in the employer's workforce and the proportion of members of the designated groups in the community's working age population. Then, they will look both inside and outside the employer's organization to estimate the availability of qualified and potentially qualified designated group members for job openings expected during the three-year plan.

Every three years, employers and bargaining agents will review progress and revise the employment equity plan for the next three years.

Employment equity is not going to be accomplished overnight. Through employment equity plans, employers, unions and employees work toward goals that mark reasonable progress over time.

Certificates

The Employment Equity Commission, which will be established as an independent, arm's length agency when the Act takes effect on September 1, 1994, will monitor the implementation of employment equity. The main way employers will provide information to the Commission is through a **certificate**.

The first certificate, filed within six months after the plan begins, will confirm that the steps required by the Act have been completed, provide data on the workforce profile and, in the case of large employers, include information on the measures in the plan. Employers will file a new certificate each time a plan is revised — that is, every three years — confirming that the plan has been reviewed and indicating the progress that has been made.

The certificates will provide an important source of data and information for the Commission's annual report on progress toward achieving employment equity in Ontario.

Preparing Reports

Employers also prepare **reports** on their plans. Most employers will keep their reports on file and send them to the Employment Equity Commission on request. The Ontario Public Service, as well as municipalities, universities, colleges, school boards and hospitals with 50 or more employees, will send their reports to the Commission.

Once the initial plan has been prepared, employers compile a first report highlighting the measures in the plan and providing information on the workforce profile as a basis for tracking progress. Large employers provide more details on the workforce profile than do small employers.

After the three-year plan is up, employers prepare an end-of-plan report outlining the actions taken during that period and presenting an up-to-date workforce profile showing the changes that have occurred. Again, large employers include more detailed information. A new end-of-plan report is compiled at the end of each three-year plan.

How To Get More Information

If you have **questions** about the *Employment Equity Act* or Regulations, or would like a copy of a plain language overview of the Act or the Regulations, please call the Ministry of Citizenship Information Lines below. Alternative formats of information materials are available from the Ministry.

- Outside Toronto, call: 1-800-268-5737
- In Toronto, call: 326-6224
- TTY, outside Toronto, call: 1-800-387-4456
- TTY, in Toronto, call: 326-1778

If you would like to contact the Office of the Employment Equity Commissioner for further information, its newsletter or other materials as they become available, please contact:

The Office of the Employment Equity Commissioner
77 Bloor Street West, 10th Floor
Toronto, Ontario
M7A 2R9

or call the Employment Equity Information Hotline:

- Outside Toronto, call: 1-800-567-0356
- In Toronto, call: 314-0016
- TTY, outside Toronto, call: 1-800-663-2534
- TTY, in Toronto, call: 314-0011

If you would like to purchase a copy of the legal text of the *Employment Equity Act,* please contact Publications Ontario below. If you would like to purchase a copy of the Regulations to the Act, they will be available after July 22, 1994 through Publications Ontario. Please write:

Publications Ontario
50 Grosvenor Street
Toronto, Ontario
M7A 1N8

or call Publications Ontario

- Outside Toronto, call: 1-800-668-9938
- In Toronto, call: 326-5300

TTY users may order through the Citizens' Inquiry Bureau:

- Outside Toronto, call: 1-800-268-7095
- In Toronto, call: 325-3408

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A Chronology of Consultations on Employment Equity

June, 1994

November, 1990

- The NDP government, in its first Speech from the Throne, identifies employment equity as a priority on its social justice agenda.

March, 1991

- Juanita Westmoreland-Traoré is appointed Ontario's first Employment Equity Commissioner.

Summer, 1991

- The Employment Equity Commissioner establishes a Consultation Advisory Committee with members representing designated groups, labour, business and employment equity practitioners.

November, 1991

- The Office of the Employment Equity Commissioner (OEEC) releases a discussion paper entitled "Working Towards Equality" as a basis for province-wide consultations.

December, 1991 – March, 1992

- The OEEC conducts a public consultation consisting of public hearings, visits to community-based organizations and workplaces across Ontario, and more than 100 community meetings.
- Public forums are held in Windsor, London, Hamilton, Thunder Bay, Sudbury, Timmins, Ottawa, Kingston, Toronto and Scarborough.
- The OEEC receives more than 400 written briefs.

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- The OEEC works with community-based organizations, youth groups, designated groups, organized labour and business associations to develop joint initiatives designed to encourage participation in the process for developing legislation.
- The OEEC holds technical seminars to explore such issues as data collection and reporting, worker participation in employment equity planning, and compliance and enforcement.
- Meetings are held with a variety of groups within the Ontario Public Service (OPS), including the Ontario Public Service Employees Union and representatives of the designated groups.

Spring, 1992, onwards

- The Minister of Citizenship, Elaine Ziemba, establishes a Technical Advisory Group composed of representatives of business, organized labour and designated groups.

June 25, 1992

- Bill 79, An Act to Provide for Employment Equity for Aboriginal Peoples, People with Disabilities, Members of Racial Minorities and Women, is introduced for First Reading.
- The Office of the Employment Equity Commissioner releases a report on its consultation process—"Opening Doors".
- The Ministry of Citizenship sets up an information line to deal with inquiries from employers, unions, employees, members of the designated groups and the general public.

June, 1992, onwards

- The Minister of Citizenship and the Employment Equity Commissioner continue to meet with a wide range of individuals, organizations, associations and community groups to discuss Bill 79.
- The OEEC publishes its first newsletter.

August – October, 1992

- Meetings of the Commissioner's Regulations Development Advisory Group and the Joint Technical Advisory Committee on Construction Regulations are held. Members of these two groups represent business, labour and designated groups.
- Chaired by the Employment Equity Commissioner, these groups advise on the development of the Draft Regulation.

Spring, 1993

- The Ministry of Citizenship Employment Equity Regulations Unit undertakes a technical consultation with more than 50 employers in the public, broader public and private sectors. The purpose is to solicit input on the Draft Regulation in its final stages.
- A number of employers and bargaining agents participate in an on-site review of the soon-to-be-released Draft Regulation.
- The Office of the Employment Equity Commissioner sets up an information hotline.

June 16, 1993

- Bill 79 is introduced for Second Reading in the Legislature.
- The Minister of Citizenship releases the Draft Regulation.
- Interested parties are asked to submit written briefs on the Draft Regulation to the Ministry by October 29, 1993.

July 19, 1993

- Second Reading debate on Bill 79 is concluded.
- The Bill is referred to the Standing Committee on Administration of Justice for public hearings.

August 16 – September 2, 1993

- The Standing Committee on Administration of Justice holds public hearings on Bill 79.
- More than 100 interested parties make presentations to the Committee.
- The Clerk of the Committee receives 184 written submissions on the Bill.

September 7, 1993

- The Government releases a package of proposed amendments to Bill 79, based on discussions during the public hearings and an analysis of the submissions to the Standing Committee.

September 8, 1993

- The Standing Committee on Administration of Justice begins a clause-by-clause review of Bill 79.
- Additional amendments are tabled throughout the Standing Committee process.

September 14, 1993

- The Office of the Employment Equity Commissioner establishes a Public Education Advisory Committee to ensure that public education strategies and training are responsive to the needs of various clients and communities.

October 29, 1993

- The deadline is reached for written submissions to the Employment Equity Regulations Unit of the Ministry of Citizenship on the Draft Regulation.
- The Ministry receives 59 written submissions.
- The Draft Regulation is discussed in 80 of the submissions received by the Standing Committee reviewing Bill 79.

December 6, 1993

- The Standing Committee on Administration of Justice completes its clause-by-clause examination of Bill 79.

December 9, 1993

- Bill 79 receives Third Reading in the Ontario Legislature.
- The Government announces that Proclamation of the Act—the date that it becomes effective in Ontario — will occur in 1994.

December 14, 1993

- Bill 79 receives Royal Assent.

January to June, 1994

- The Minister and the Commissioner maintain an active public speaking schedule across the province.
- The Ministry analyzes input received on the Draft Regulation and, after Government discussion and decisions, begins drafting the Regulations package.
- The Office of the Employment Equity Commissioner distributes posters for the workplace, makes available a video on employment equity, and continues to publish its newsletter.
- The OEEC offers train-the-trainer workshops in various locations throughout the province.

- The Ministry meets with representatives of Aboriginal organizations concerning the definition of Aboriginal person and how employment equity will be applied in Aboriginal workplaces.
- Officials from the Ministry, the OEEC and Human Resources Development Canada work together on how to assist employers who will be covered by both the Federal Contractors Program and Ontario's legislation.

June 29, 1994

- The Government announces that the Employment Equity Act will be proclaimed on September 1, 1994.
- A Regulations package is released, outlining the details of how employment equity will be implemented in Ontario workplaces.

Summer, 1994

- The Office of the Employment Equity Commissioner releases an introductory booklet on implementing employment equity.
- The legal text of the Regulations becomes available for purchase through Publications Ontario.

September 1, 1994

- The Government proclaims the Employment Equity Act, the broadest such legislation in North America and the first passed by a provincial legislature in Canada.
- The Act and its Regulations become effective in Ontario workplaces.
- The Employment Equity Commission is formally established as an independent, arm's length agency with a mandate to provide assistance and monitor employment equity in Ontario, with Juanita Westmoreland-Traoré as its head.
- The Commission releases the first of a series of Guidelines developed to assist employers, unions and employees in implementing employment equity.
- The Employment Equity Tribunal is established.

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EMPLOYMENT EQUITY IN ACTION
An Overview of Ontario's Employment Equity Regulations

June, 1994

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Ontario Ministry of Citizenship

Table of Contents

Introduction 1
Regulations under the Act 2
The Employment Equity Commission 2
How To Get More Information 3

1. **Defining Key Terms** 5
Designated Groups 5
Barrier 5
Joint Responsibilities 5
Multiple Plans 6
Initial Plan 6
Small Employer 6
Geographic Area 6
Occupational Group 7
Salary Group 7

2. **The Workforce Survey** 8
The Questionnaire 8
Previous Surveys 9
Workforce Profile 9
New Surveys 10

3. **Identifying the Barriers** 11
Review of Policies and Practices 11
Determining Barriers 12
Seniority Rights 12
Previous Reviews 12

4. **The Employment Equity Plan** 14
Developing the Measures 14
Setting Numerical Goals 15

5. **Reviewing and Revising the Plan** 17

6. **Certificates** 18
First Certificate 18
Later Certificates 18

7. **Joint Responsibilities** 20

8. **Consulting Unrepresented Employees** 22

9. **Communicating Employment Equity to Employees** 23

10. Keeping Records 24

11. Preparing Reports 25
First Report 25
End-of-Plan Reports 26

Introduction

Ontario's *Employment Equity Act*, which becomes effective on September 1, 1994, outlines what is basically a four-step planning process for employers, unions and employees working together to move toward employment equity. These four steps are:

- communicating with employees about employment equity principles and process;
- surveying the workforce to determine how many women, Aboriginal people, people with disabilities and members of racial minorities are in the workplace;
- reviewing workplace policies and practices to identify barriers facing the four designated groups; and
- developing a plan to remove barriers and make reasonable progress towards achieving employment equity.

Different types and sizes of employers will have different timeframes for completing the basic four-step planning process:

- Provincial government ministries and some agencies, boards and commissions will have until September 1, 1995, or one year from the effective date.
- Broader public sector employers — including municipalities, universities, colleges, school boards and hospitals — with 10 or more employees will have 18 months.
- Private-sector employers with 500 or more employees will have 18 months.
- Private-sector employers with 100 or more employees but under 500 will have two years.
- Private sector employers with 50 or more employees but under 100 will have three years from the effective date.

About 17,000 employers in Ontario — affecting about three-quarters of the workforce — are covered by the *Employment Equity Act*. Employers who do **not** have obligations under the Act include: employers in the private sector with under 50 employees; employers in the broader public sector with under 10 employees; and police forces under the *Police Services Act*, because that Act has its own employment equity regulations.

Federally-regulated employers in Ontario — banks, for example — are not covered by the Ontario legislation.

Regulations under the Act

The Act sets out the principles, objectives and main features of employment equity. It is accompanied by Regulations which come into effect in tandem with the Act on September 1, 1994.

The Regulations outline the practical steps and activities needed to make employment equity a reality in Ontario workplaces and provide definitions of some key terms. Aboriginal workplaces and the construction industry will have special regulations adapting requirements of the Act to their unique circumstances. Since discussions and consultations with the respective parties are continuing, the Regulations released this month set the dates for completion of employment equity plans by these employers one year later than for other employers. Because of the nature of seasonal agricultural work and because of federal programs affecting off-shore workers in the agricultural industry, the Regulations provide that seasonal agricultural employees are exempt from the Act.

The Regulations package, like the Act itself, is the result of extensive consultation involving employers, labour unions, designated group representatives and human resources experts. In June, 1993, a Draft Regulation was released for consultation, and more than 60 submissions were received in response. In addition, the Draft Regulation was discussed in 80 submissions to a legislative committee during hearings on the Act.

This overview of the Regulations package is intended to be used for informational purposes only. For a precise description of employment equity responsibilities and obligations, readers should consult the Act and its accompanying Regulations.

The Employment Equity Commission

Juanita Westmoreland-Traoré was named Ontario's Employment Equity Commissioner in 1991. Since then, she has been playing a leading role in the consultation process that led to the development of the legislation. Ms. Westmoreland-Traoré will head the **Employment Equity Commission** when it is formally established as an independent, arm's-length agency on September 1, 1994.

The role of the Commission is to facilitate and monitor employment equity in Ontario. It will provide information and materials to employers, unions and workers as well as undertake public education. It will also conduct audits and will have the power to order employers to take steps to comply with the legislation.

While the *Employment Equity Act* and Regulations set out legal obligations and indicate what must be done, the Commission will provide guidance on how to do it. For example, the Office of the Employment Equity Commissioner (OEEC) will make available an introductory booklet on implementing employment equity. A series of **Guidelines** is also being produced that will provide detailed information as well as examples of employment equity in practice. The first of these Guidelines are scheduled to be available when the Act becomes effective on September 1.

The Act also establishes the **Employment Equity Tribunal** as an adjudicative body. The Tribunal will have the power to mediate cases, hear appeals of orders and make final decisions on complaints and disputes involving compliance with the Act. The recruitment of the Chair of the Tribunal is under way.

How To Get More Information

If you have **questions** about the *Employment Equity Act* or Regulations, or would like a copy of a plain language guide to the Act, please call the Ministry of Citizenship Information Lines below. Alternative formats of information materials are available from the Ministry.

- Outside Toronto, call: 1-800-268-5737
- In Toronto, call: 326-6224
- TTY, outside Toronto, call: 1-800-387-4456
- TTY, in Toronto, call: 326-1778

If you would like to contact the Office of the Employment Equity Commissioner for further information, the OEEC newsletter or other materials as they become available, please contact:

The Office of the Employment Equity Commissioner
77 Bloor Street West, 10th Floor
Toronto, Ontario
M7A 2R9

or call the Employment Equity Information Hotline:

- Outside Toronto, call: 1-800-567-0356
- In Toronto, call: 314-0016
- TTY, outside Toronto, call: 1-800-663-2534
- TTY, in Toronto, call: 314-0011

If you would like to purchase a copy of the legal text of the *Employment Equity Act,* please contact Publications Ontario below. If you would like to purchase a copy of the Regulations to the Act, they will be available after July 22, 1994 through Publications Ontario. Please write:

Publications Ontario
50 Grosvenor Street
Toronto, Ontario
M7A 1N8

or call Publications Ontario

- Outside Toronto, call: 1-800-668-9938
- In Toronto, call: 326-5300

TTY users may order through the Citizens' Inquiry Bureau:

- Outside Toronto, call: 1-800-268-7095
- In Toronto, call: 325-3408

1. Defining Key Terms

To understand how employment equity works, it is helpful to keep in mind the meaning of several key terms defined in the Act and the Regulations.

Designated Groups

The four designated groups in Ontario's *Employment Equity Act* are:

- **Aboriginal people**: members of the Indian, Inuit, or Métis peoples of Canada
- **people with disabilities**: persons with a persistent physical, mental, psychiatric, sensory or learning impairment that they believe, or feel an employer is likely to believe, disadvantages their employment prospects
- **members of racial minorities**: persons who, because of their race or colour, are in a visible minority in Ontario
- **women.**

A person may be a member of more than one designated group.

Barrier

Employment equity is designed to remove barriers. According to the Regulations, a rule, practice or condition in the workplace is a **barrier** if it adversely affects members of a designated group more than it does others. Legitimate job requirements are not considered barriers under the Act.

Joint Responsibilities

Under the Act, a union that is certified or recognized by law as representing employees in negotiations with an employer is their **bargaining agent** for the purposes of employment equity. Employers and bargaining agents have joint employment equity responsibilities for the portion of the workforce represented by the bargaining agent. These responsibilities include:

- providing information to employees about employment equity
- conducting the workforce survey
- reviewing workplace practices and policies
- identifying barriers
- developing the employment equity plan
- reviewing and revising the plan.

Under the Act employers and bargaining agents must carry out their joint responsibilities separately from normal collective bargaining. The Regulations outline some specific procedures for carrying out joint responsibilities.

Multiple Plans

Under the Act, an employer and bargaining agent have the option of preparing more than one plan, provided that the plans together cover all employees and workplaces. Multiple plans could mirror the corporate structure or geographic locations, for example. While, for convenience, the text of this overview refers to one plan, there may be more than one plan in a workplace. Section 21 of the Regulation makes clear that multiple plans cannot be organized in a way that defeats the principles of the Act.

Initial Plan

The "initial plan" referred to in the Regulations means the first employment equity plan prepared under the Act.

Small Employer

The Regulations provide for modified requirements for small employers. Small employers are responsible for informing employees about employment equity, conducting the workforce survey, identifying barriers and developing employment equity plans. But they do not set numerical goals, and they have simplified reporting requirements.

In the Regulations a small employer in the private sector is defined as one with at least 50 but fewer than 100 employees. In the broader public sector a small employer is an organization with at least 10 but fewer than 50 employees.

Geographic Area

In developing an employment equity plan, employers will examine the make-up of their workforces in particular communities. A **geographic area** means the boundaries of a community for employment equity planning purposes as determined by census data.

The federal government uses the same areas in compiling statistical information for employers under the Federal Contractors Program. A

number of Ontario employers are already implementing employment equity under this program, as a condition of securing federal contracts. A co-ordinated federal-provincial approach will maximize efficiency for employers and both government programs.

The Regulations also provide an employer with the option of combining two or more geographic areas, if the employer has fewer than 50 employees in each area. The combined areas are then considered to be one geographic area for employment equity purposes. Employers and bargaining agents representing employees will jointly decide whether to do this.

Occupational Group

Employers will also look at the different occupational groups in their workforces. The Regulations indicate how to determine the occupational group into which a particular job falls.

There are 14 **occupational groups** used for employment equity. Employers will use the National Occupational Classification system to classify jobs, and will then group them into the occupational groups. The procedure for determining the occupational group of a specific job is explained in two standard resource materials produced by the federal government.

This is the same method the federal government uses for classifying occupations under its Federal Contractors Program. Again, a consistent approach will increase efficiency for employers.

Salary Group

Section 5 of the Regulation explains how employers with 500 or more employees compile information on salary groups for their employment equity reports. A **salary group** is calculated by taking the salaries of the highest-paid and lowest-paid employees in an occupational group and finding the difference. This difference is then divided into four equal salary ranges for the occupational group. Each of the four ranges is a salary group.

2. The Workforce Survey

Putting employment equity into action will involve conducting a **workforce survey**. The purpose of the survey is to get a profile of an employer's workforce, so that the employer knows how many members of designated groups are in the organization at a particular time.

Where employees are represented by a union, conducting the workforce survey is a joint responsibility of the employer and the bargaining agent. Otherwise employers are responsible for the survey, and must consult with employees before it is conducted.

The Questionnaire

To get the workforce profile, a questionnaire will be given to all employees, asking them to state whether or not they are members of a designated group. The four questions to be asked in all questionnaires are listed in Schedule 1 of the Regulation.

Each employee is provided with a questionnaire in order to indicate whether or not he/she is a member of a designated group. This self-identification is the best way to find out who is a member of a designated group in a workplace, while respecting individual privacy. All employees will have the right to decide whether or not to fill out the questionnaire.

Section 7 of the Regulation says that the questionnaire must include a notice underlining the employee's right to answer the questions or not, the employee's obligation to return the questionnaire and the fact that the questionnaires themselves remain confidential. The form will also point out that people can belong to more than one designated group.

While employers have the option of including additional questions on employment equity in the questionnaire, the form must make it clear that the additional questions are not required by the Act and that, as with the other questions, employees do not have to answer them.

It is important for employers and bargaining agents to explain to workers why the survey is an essential part of achieving employment equity. This will encourage a higher, more accurate employee response rate. Employers and bargaining agents will assist workers who need help to understand and complete the questionnaire. Shortly after the Act takes effect, the Employment Equity Commission is scheduled to issue a Guideline on conducting a workforce survey.

Previous Surveys

Some employers — for example, those who have had voluntary employment equity programs — might have already gone through the process of conducting a workforce survey. Under section 6 of the Regulation, these employers will not have to do another survey while preparing their initial plan if three conditions are met:

- the survey findings are up to date
- the results of the previous survey would likely be as accurate as those in a new one
- the previous survey gave employees the choice of indicating whether or not they belong to a designated group.

Bargaining agents will work jointly with employers to determine if these conditions have been met. If the two parties cannot agree, either of them can ask the Employment Equity Commission for an opinion on whether a previous survey meets the conditions. And, of course, either party can apply to the Employment Equity Tribunal to determine whether or not a previous survey can be used.

Where employees are not represented by a bargaining agent, the employer will notify the Employment Equity Commission if a previous survey is being used as the basis for an initial employment equity plan.

Workforce Profile

After the survey has been completed, the employer will tabulate the information in the questionnaires. The next step will be to sketch the workforce profile, using the compiled information.

Section 11 of the Regulation explains how to create the profile. Large employers will look separately at each of their occupational groups. They will also look at each geographic area in which their workforce is located. Using the results of the questionnaires, they will determine how many women, Aboriginal people, people with disabilities and members of racial minorities are in each occupational group in each geographic area.

Small employers do not compile data on occupational groups and geographic areas. To get their profile, they simply tally up how many members of each designated group are in their workforce.

The workforce profile, once completed, must be kept up to date. For example, new employees must have an opportunity to complete the workforce survey questionnaire. Employees who want to change the

information they provided in the original survey will be able to fill out a new form. Records will show if people leave their jobs. And large employers will keep track of changes like promotions and transfers from one occupational group to another.

As a result, when it's time to review and revise an initial plan, employers will have the data ready to both measure progress and set appropriate goals and timetables for their next employment equity plan.

New Surveys

Under section 13, employers will be required to do a new survey every nine years.

3. Identifying the Barriers

The heart of employment equity is removing barriers and treating people fairly in the workplace. Barriers restrict many members of the designated groups to low paying jobs with few advancement opportunities, and sometimes exclude them from the job market entirely — despite their abilities and skills. This is a waste of our most valuable resources — our human resources.

Once the workforce survey is completed and the profile developed, employers will have a picture of who is in their workforce and what types of work they do. At this point it may be apparent who is missing from the picture.

The next step is to look at the organization's employment policies and practices to see if any of them are barriers to equitable treatment of members of the designated groups. This may indicate why the workforce profile looks the way it does.

While some barriers may be deliberate, most are unintentional, and very often they are hidden. In many cases, practices and policies built into the system over time have become barriers. Often employers and employees think of these **systemic** barriers as "just the way we do things". Even though they may be unintentional, these barriers can have just as damaging an effect as deliberate discrimination.

Here are a few workplace practices that could be systemic barriers:

- height and weight restrictions that have nothing to do with the job, but tend to keep women and some racial minorities from being considered for certain types of work
- physical barriers to wheelchair access to the workplace
- requiring Canadian experience when it is not necessary to do the work.

Review of Policies and Practices

To identify barriers, employers will begin by examining the employment policies and practices covering their workforce. Where employees are represented by a union, this is a joint responsibility of the employer and the bargaining agent. Employers will consult with unrepresented employees about the review.

Both large and *small employers* will examine their policies and practices, including the way they recruit, hire, keep, treat and promote employees. Large employers will ensure that their review covers the following policies and practices:

- how they recruit job applicants, select candidates and hire them
- how they promote employees and move them between occupational groups in the employer's workforce
- how workers are trained and developed, and who gets these opportunities
- the way employees are evaluated on how well they do their jobs
- how decisions are made to fire or lay off employees, and how they are treated if they choose to retire or resign
- the system for deciding who gets what salaries and benefits
- how the special needs of designated groups are accommodated
- other conditions of employment, or ways of treating employees.

Determining Barriers

After employers (and bargaining agents) have taken a close look at the policies and practices, they must then determine if any of them act as barriers to equitable treatment of the members of the designated groups. Information on identifying barriers, with examples and explanations, will be included in a Guideline scheduled to be released by the Employment Equity Commission in the fall of 1994.

Seniority Rights

The *Employment Equity Act* provides that seniority rights concerning lay-off or recall to work after lay-off will not be considered barriers to employment. In addition, other seniority rights will not be considered barriers unless a board of inquiry under the *Ontario Human Rights Code* rules that those rights discriminate against members of a designated group.

Previous Reviews

Those employers who have already reviewed their employment policies and practices will not have to conduct another review if two conditions are met:

- the results of the earlier review are up to date
- a new review would likely produce the same results as the old one.

As with the workforce survey, employers and bargaining agents will jointly decide if the previous review meets these standards. If the two parties cannot

agree, either of them can ask the Employment Equity Commission for an opinion or, alternatively, may apply to the Employment Equity Tribunal to determine the issue.

Where employees are not represented by a union, the employer will notify the Employment Equity Commission if a previous review is being used.

4. The Employment Equity Plan

After the workforce profile has been examined and the barriers to employment identified, decisions need to be made on how to remove the barriers and ensure equitable treatment in the workplace. This approach will constitute an **employment equity plan**, which will include goals and timetables and last for three years.

Preparing the plan is the joint responsibility of the employer and the bargaining agent, except where employees are unrepresented, in which case the plan is the employer's responsibility. Employers will consult with unrepresented employees in developing the plan. The Employment Equity Commission is scheduled to release a Guideline on employment equity plans in early 1995.

The *Employment Equity Act* sets the standard that a plan must meet: "reasonable progress" toward achieving the principles of employment equity. One of these principles is that members of the designated groups have the right to be considered for jobs, hired, retained, treated and promoted at work without having to face unfair barriers. Another is that, over time, an employer's workforce should reflect the representation of the designated groups in the community.

Developing the Measures

The Regulations describe what goes into a plan. For example, a plan will list which barriers will be removed under the current plan. Each plan will also describe the measures for promoting equitable treatment for the designated groups and the timetables for implementing and monitoring them.

These measures include:

- **action to eliminate barriers** — for example, eliminating height and weight requirements unrelated to the job
- **positive measures** to help members of designated groups secure equitable treatment in the workplace — for example, mentoring or bridging programs
- **ways to accommodate** — for example, providing a work-related technical device that would enable a person with a disability to do the job
- **supportive measures** that benefit all employees — for instance, flexible working hours
- **anti-harassment policies** and **anti-discrimination policies** that would improve the working environment for all employees.

The plan will also describe the employer's process for consulting on employment equity with employees not represented by a union; summarize their comments; and indicate how the employer has responded to the issues raised.

Setting Numerical Goals

Employment equity plans — except for small employers' plans — will also contain **numerical goals** for making the workplace more representative of the community.

Ontario workplaces vary greatly, and different employers face different circumstances. For this reason, employers set their own numerical goals and the timelines for achieving them. Where employees are represented by a union, these are determined jointly by the employer and the bargaining agent.

Section 18 defines a numerical goal as the **proportion of job openings** in an occupational group that an employer targets for members of the designated groups. Job openings include new hirings and promotions, as well as transfers from one occupational group to another.

A large employer's plan will set a numerical goal for each designated group in each occupational group in the employer's workforce. Employers with various locations in Ontario will establish numerical goals for each geographic area covered by the plan. Employers do not set numerical goals for **seasonal employees** or **seasonal job opportunities.**

Small employers do not set numerical goals.

Large employers set numerical goals — customized to the unique circumstances of the workplace — based on three factors outlined in Section 19:

- **underrepresentation** of designated group members — or the gap between the proportion of members of each of the designated groups in the employer's workforce and the proportion of members of the designated groups in the community's working age population.
- **availability inside** — the number of members of each designated group working for the employer who have the skills for or could be trained for job openings likely to occur over the three-year life of the plan.
- **availability outside** — the number of designated group members outside the organization with the skills for the employer's occupational groups.

To determine relevant availability outside the organization, large employers will look at the proportion of designated group members among people who:

- are in the **working age population** in the geographic area
- are in the **occupational group** in the geographic area
- have the necessary **skills** to work in the occupational group and are in the geographic area
- are **graduating** from training and education programs in Ontario that give them the necessary skills
- are in any **other group** for which the Employment Equity Commission provides information.

The Employment Equity Commission will have this data available.

For some occupations, it is the usual practice to recruit staff from a larger geographic area than the community where the employer is located. For example, some organizations may regularly search across the province for candidates in very specialized scientific careers. In this case, data from the larger geographic area may be used to compute the number of people already working in the occupational group or having the skills to do so.

By going through the steps outlined above, employers will determine the proportion of potentially qualified members of designated groups likely to be available for job openings over the three-year term of the plan. This will help employers set realistic goals.

5. Reviewing and Revising the Plan

Before the three-year plan is up, the employer will review the progress that has been made in implementing the plan. The plan will then be revised, using up to date information, and put into action for the next three years. Employers and bargaining agents representing employees will review and revise the plan as a joint responsibility. The revised plan will include details on how the review took place.

The new plan will include measures to remove remaining barriers and revise workplace practices, as well as the schedule for carrying them out. Large employers will also set new numerical goals. If numerical goals in the previous plan were not achieved, the new plan will indicate the steps to be taken to address this.

6. Certificates

The main way employers will provide information to the Employment Equity Commission, which is responsible for monitoring employment equity across the province, is through a **certificate** signed by the employer's chief executive officer or equivalent. This document will confirm that the requirements of the legislation have been met, include statistics on the workforce profile, and indicate where the Commission can obtain a copy of the employer's full report on the plan. (Part 11 of this overview deals with reports.) A new certificate is required each time a plan is revised, which means every three years.

Under the Act, the Commission is to produce an annual report on the progress made toward achieving employment equity in Ontario. The certificates sent to the Commission will provide an important source of data and information needed to prepare this public document.

First Certificate

The first certificate is sent to the Commission within six months after an initial plan begins. It will confirm that the employer has:

- provided employees with the information and completed the consultations required by the Act
- conducted a workforce survey
- reviewed employment policies and practices
- prepared an employment equity plan and report.

Small employers will indicate the number of employees in the workforce, and the number of members of each designated group in the workforce.

Large employers will also provide:

- the number of employees in each occupational group
- the number of members of each designated group in each occupational group
- the plans for removing barriers and improving workplace practices.

Later Certificates

Employers will send a new certificate to the Commission within six months after a revised plan comes into effect. This will confirm that the employer and any bargaining agent representing employees have reviewed the previous

plan and revised it, and that the employer has prepared the report required at the end of the previous plan.

Subsequent certificates will compare the workforce profile at the beginning of the new plan with the profile three years earlier. This comparison will highlight the progress that has been made in making the workplace more representative of the community.

Small employers will list the total number of employees and the number of designated group members when the previous plan began as well as when the current plan began. Large employers will indicate the number of employees and designated group members working in each occupational group at the beginning of both plans.

Large employers will also include information about their efforts to carry out the previous plan and the results achieved. For each occupational group, they will indicate the number of job openings that were filled under the previous plan and the number filled by designated group members. This is another indicator of the progress that has been made. In addition, large employers will describe the measures taken under the previous plan, as well as the measures to be undertaken in the revised plan.

7. Joint Responsibilities

Joint responsibility is a unique feature of employment equity in Ontario. Under the Act, employers and bargaining agents are jointly accountable for completing the steps in the employment equity planning process.

Where employees are represented by a single bargaining agent, the employer and the bargaining agent will set up a process to carry out their employment equity responsibilities. If there is more than one bargaining agent, the employer and the bargaining agents will form a **joint co-ordinating committee** to establish the process for co-operation.

Section 25 of the Regulation stipulates that employers and bargaining agents will begin work on the process for collaboration at least 12 months before the employment equity plan has to be completed. This timeframe applies whether there is one bargaining agent or more than one.

On the joint co-ordinating committee, each bargaining agent is entitled to have one member for each unit of employees it represents. The same individual can represent two or more bargaining units if the bargaining agents representing those units agree. Under the Act, the employer can have as many representatives on the joint committee as there are bargaining agent representatives.

The joint co-ordinating committee may decide a number of preliminary matters. For example:

- whether to prepare one employment equity plan or more than one
- whether to subdivide the workforce in each plan (for example, based on company structure or geographical areas) and how to do so.

Section 28 provides that the bargaining agent will consult with the workers it represents who are members of the designated groups. If the bargaining unit doesn't include any members of a particular designated group, the bargaining agent will ask the Employment Equity Commission for information on how to address that group's concerns. The same applies if no members of a particular designated group participate in the consultations.

Under the Act, employers are obliged to provide bargaining agents with all information needed to carry out their joint responsibilities. Section 29 of the Regulation specifically provides that employers must supply bargaining agents with initial and subsequent reports on employment equity plans, and any order of the Employment Equity Commission or the Employment Equity Tribunal respecting employees represented by the bargaining agent.

Bargaining agents will also have access to the workforce survey results compiled by the employer from the questionnaires. The questionnaires themselves are confidential. Also, to protect privacy, any reference to from "one" to "four" members of a designated group will be changed to read "less than five" members before compiled information is given to the bargaining agent.

Time during the regular work day that an employee spends in the employment equity process is considered work time, for which the employee will be paid at the usual rate.

Information on joint responsibilities will be included in a Guideline the Employment Equity Commission is scheduled to release shortly after the Act becomes effective.

8. Consulting Unrepresented Employees

If it's to work, employment equity will require all parties in the workplace to plan and take action together. Many organizations and industries have a long history of active worker participation on issues such as occupational health and safety. This kind of experience is a foundation employment equity can build on.

Workers not represented by a union will also participate in making employment equity happen. The employer will set up a process to consult directly with these employees about the workforce survey, the review of policies and practices, and the employment equity plan.

Section 31 of the Regulation makes clear that these consultations will give employees the chance to identify barriers and comment on the proposed plan. In addition, employees who are members of the designated groups must be included in the process. If there are no workers being consulted from a particular designated group, the employer will ask the Commission for information on how to address that group's concerns.

Information on employee consultations will be included in a Guideline which is scheduled for release in the fall.

As a basis for the consultations, the employer will make the following information readily accessible to employees:

- a description of the consultation process
- the results of the workforce survey
- a summary of the findings of the review of employment policies and practices
- measures proposed to eliminate barriers.

Employers can make this information accessible either by posting it in the workplace, or by posting a notice telling employees where in the workplace they can see it. Any reference to "one" to "four" members of a designated group must be changed to "less than five" members before the information is released.

Time that an employee spends participating in consultations on employment equity is considered work time, for which the employee will be paid at the usual rate.

9. Communicating Employment Equity to Employees

Because the success of employment equity depends on employee understanding, the Regulations outline how employers can ensure that employees have a chance to learn about it at key stages during the process. This is a joint responsibility of employers and bargaining agents where workers are represented by a union.

The first step is to inform employees about the principles of employment equity before the process in the workplace begins.

Then, the employer (and any bargaining agents) must explain the process, which includes taking the workforce survey, reviewing employment policies and practices and preparing the plan.

For the information of employees, all employers will post the following items in the workplace:

- the summary of the *Employment Equity Act* and Regulations provided by the Employment Equity Commission
- a summary of the consultation process for each employment equity plan
- a description of the employer's process for monitoring the measures, timetables and numerical goals in each plan
- a copy of certificates filed with the Employment Equity Commission.

In addition, employers will ensure that employees have access to:

- a copy of the employment equity plan that covers the employees
- reports on the plan
- orders of the Employment Equity Commission or the Employment Equity Tribunal concerning the plan.

10. Keeping Records

Employers will keep records on the employment history of employees and whether or not they are members of a designated group. Large employers will also keep records of which occupational group employees are in.

These records must be kept up to date, and only people responsible for carrying out the employer's obligations under the *Employment Equity Act* will be allowed to see them.

In addition, every employer will keep a copy of the employment equity plan and the information used to develop the plan for three years after the plan is finished (six years in all). The workforce survey questionnaires and related information are kept until the next workforce survey (nine years).

11. Preparing Reports

Once an initial plan has been prepared, employers compile a report highlighting the measures in the plan and providing information on the workforce profile as a basis for tracking progress. After the three year plan is up, employers prepare a new report outlining the actions taken during that period and presenting an up to date picture showing how the workforce profile has changed.

Since employment equity affects about 17,000 Ontario employers, the Employment Equity Commission cannot examine all reports. Therefore, most employers will keep their reports on file and send them to the Commission only on request.

The exceptions to this rule are the Ontario Public Service — including some provincial agencies, boards and commissions — as well as municipalities, universities, colleges, school boards and hospitals having 50 or more employees. These public sector organizations will provide a copy of their initial and later reports to the Commission.

First Report

Employers have six months after an initial plan begins to prepare an initial report.

In the first report, both large and *small employers* will indicate the number of workers who returned a workforce survey questionnaire before the plan took effect, and the number of questionnaires with the required questions completed. All employers will also outline the measures in the plan to remove barriers and improve workplace practices, as well as any other information they consider relevant.

In their first reports, *small employers* will also state the total number of employees covered by the plan, and the number of members of each designated group when the plan began.

Large employers will include more detailed information on the status of the workforce when the plan took effect. They will also break down this information by geographic area.

The following data are to be presented for each geographic area covered by a large employer's plan:

- the number of workers in each occupational group — and the number of members of each designated group working in the occupational group
- the number of permanent full-time, permanent part-time, term and seasonal employees — and the number of members of each designated group in these categories.

Employers with 500 or more workers will also include data on the number of employees and designated group members in four salary groups (or quartiles) in each occupational group. The purpose is to see if designated group members are concentrated in lower-paying jobs, or if they are evenly represented throughout the occupational group.

End-of-Plan Reports

After the initial three-year plan expires, the employer will put together a report showing what has been accomplished. This report will be completed within six months of the expiry date of the initial plan. Likewise, the employer will compile an end-of-plan report on each subsequent plan, within six months of its conclusion. This means that an employer will prepare a report every three years.

In the end-of-plan reports both large and *small employers* will describe the measures taken to remove barriers and improve workplace practices. As in the first report, they will indicate the number of workers who returned a workforce survey questionnaire before the plan took effect, and the number of questionnaires completed. In addition, the end-of-plan reports will provide data to chart the progress of employment equity.

Small employers' reports will show the total number of employees covered by the plan and the number of members of each designated group — at the beginning and end of the plan.

The end-of-plan reports for large employers will include the following information for each geographic area:

- the numerical goals set out in the plan
- the number of employees in each occupational group, and the number of members of each designated group — at the beginning and end of the plan
- the number of permanent full-time, permanent part-time, term and seasonal employees, and the number of designated group members in these categories — at the beginning and end of the plan

- the number of job openings in each occupational group during the three years of the plan, and the number filled by designated group members
- the number of people no longer employed in each occupational group and the number of designated group members among those individuals.

Employers can include any other information they think is relevant. In addition, as with the first report, employers with 500 or more workers will provide data on salary groups in their subsequent reports.

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REGULATION MADE UNDER THE EMPLOYMENT EQUITY ACT, 1993

GENERAL

Contents

	Sections
Non-Application	1
Interpretation	2 - 5
Workforce Survey	6 - 13
Review of Policies and Practices	14 - 15
Employment Equity Plan	16 - 21
Review and Revision of a Plan	22 - 23
Certificates	24
Joint Responsibilities of Employers and Bargaining Agents	25 - 30
Consultation with Unrepresented Employees	31 - 33
Information for Employees	34 - 36
Employment Equity Records	37 - 38
Employment Equity Reports	39 - 41
Commencement	42

Non-Application

1. This Regulation does not apply with respect to those employees who are employed at an Aboriginal workplace or in the construction industry.

Interpretation

2. (1) In this Regulation,

"initial plan" means, in relation to all or part of an employer's employees, the first employment equity plan prepared under the Act that applies to the employees; ("programme initial")

"small employer" means,

(a) an employer in the broader public sector that has fewer than 50 employees, excluding seasonal employees, or

(b) a private sector employer that has fewer than 100 employees, excluding seasonal employees; ("petit employeur")

"workforce survey questionnaire" means a workforce survey questionnaire described in section 7. ("questionnaire d'analyse des effectifs")

(2) For the purposes of this Regulation, the following are the designated employers in the broader public sector:

1. Every city, town, township, village, improvement district and regional municipality, The Municipality of Metropolitan Toronto, The District Municipality of Muskoka and the County of Oxford.

2. Every board as defined in the Education Act and every college and university in Ontario the majority of the capital or annual operating funds of which are received from the Crown.

3. Every hospital listed in the Schedule to the Classification of Hospitals Regulation made under the Public Hospitals Act.

4. Every private hospital operated under the authority of a licence issued under the Private Hospitals Act.

5. Every hospital approved as a community psychiatric hospital under the Community Psychiatric Hospitals Act.

3. (1) For the purposes of this Regulation, the geographic area in which all or part of an employer's workforce is located is,

(a) the census metropolitan area for Ontario defined in Reference Maps, Census Metropolitan Areas and Census Agglomerations, dated September 1992 published by Statistics Canada in which all or part of the workforce is located; or

(b) if it is not located within a census metropolitan area, the Canada Employment Centre Management Area as set out in CEC Management Area Maps Ontario Region, dated August 31, 1993, published by Employment and Immigration Canada in which all or part of the workforce is located.

(2) An employer may combine two or more geographic areas if the employer has fewer than 50 employees in each. The combined geographic areas shall be deemed to be one geographic area for the purposes of this Regulation.

4. The occupational group for a job is determined as follows:

1. Determine the unit group of the job in accordance with National Occupational Classification - Occupational Descriptions and with National Occupational Classification - Index of Titles, both dated 1993, published by Employment and Immigration Canada/Canada Communication Group.

2. Determine the occupational group of the unit group in accordance with Structure of the Employment Equity Occupational Groups under NOC, dated November 1993, published by the Government of Canada.

5. (1) A salary group in an employer's workforce is established as follows:

1. Identify the full-time annualized base pay for the highest-paid and the lowest-paid employee in each occupational group.

2. Divide the difference between the highest and the lowest salary into four groups of equal dollar amounts.

3. Each of the four groups is a salary group.

(2) The salary group for an employee is determined using the employee's full-time annualized base pay.

Workforce Survey

6. (1) Each employee must be given the workforce survey questionnaire.

(2) Before preparing an initial plan, it is not necessary to give the questionnaire to employees that the employer has already surveyed to determine whether they identify themselves as belonging to any of the designated groups, so long as,

(a) the results of the previous survey are up to date;

(b) the previous survey used questions and was carried out in a manner that achieved results that are likely to be as accurate as what would have been achieved using the workforce survey questionnaire; and

(c) the previous survey gave the employees the choice of indicating whether they are members of the designated groups.

(3) Despite clause (2) (c), the previous survey need not have obtained information as to an employee's gender if the employee has otherwise provided the information to the employer.

(4) The employer and the bargaining agent shall jointly perform the duties described in this section and in subsection 10 (1) of the Act with respect to the employees represented by the bargaining agent.

(5) If the employer and the bargaining agent do not agree upon whether subsection (2) applies with respect to employees represented by the bargaining agent, either of them may request the opinion of the Employment Equity Commission about the matter.

(6) Subsection (5) does not prevent either party from making an application to the Tribunal under subsection 30 (1) of the Act.

7. (1) The workforce survey questionnaire must set out the questions listed in Schedule 1.

(2) The questionnaire must state the following:

1. Each employee has the right to decide whether to answer questions in the questionnaire.

2. Each employee must return the questionnaire to the employer whether or not the questions are answered.

3. The information collected in the questionnaire will be kept confidential.

4. The information collected will not be used or disclosed except to comply with Part III or IV of the Employment Equity Act, 1993.

(3) The questionnaire must state that a person may be a member of more than one designated group.

(4) The employer shall ensure that the employer is able from the questionnaire to identify by name or otherwise the employee who returns it.

8. (1) The workforce survey questionnaire may include additional questions relating to employment equity.

(2) The additional questions must be set out separately from those listed in Schedule 1.

(3) Only questions asking for further information about membership in a designated group or asking about the accommodation of persons with disabilities may be interspersed with questions listed in Schedule 1.

(4) The questionnaire must indicate that the additional questions are not required under the Act and that each employee has the right to decide whether to answer the additional questions.

9. (1) The employer shall make reasonable efforts to assist each employee who needs help to understand or complete the workforce survey questionnaire.

(2) The bargaining agent shall also make reasonable efforts to assist each employee represented by the bargaining agent.

10. Each employee shall return the workforce survey questionnaire to his or her employer.

11. (1) A small employer shall determine the following:

1. The number of persons in the employer's workforce who are Aboriginal persons, and the number among them who are men and who are women.

2. The number of persons in the employer's workforce who are persons with disabilities, and the number among them who are men and who are women.

3. The number of persons in the employer's workforce who are members of racial minorities, and the number among them who are men and who are women.

4. The number of women in the employer's workforce.

(2) An employer other than a small employer shall determine the following for each occupational group in the employer's workforce in each geographical area in which the employer's workforce is located:

1. The number of persons who are Aboriginal persons, and the number among them who are men and who are women.

2. The number of persons who are persons with disabilities, and the number among them who are men and who are women.

3. The number of persons who are members of racial minorities, and the number among them who are men and who are women.

4. The number of women.

(3) These determinations are to be based upon the information gathered under section 6.

(4) The employer and the bargaining agent shall jointly perform the duties described in this section with respect to the employees represented by the bargaining agent.

(5) For the purpose of performing its duties under this section, the bargaining agent shall have access to information compiled by the employer from the workforce survey questionnaires but not to the completed questionnaires.

(6) The employer shall notify the Employment Equity Commission if the employer is using information from a previous survey referred to in subsection 6 (2) to make determinations concerning employees who are not represented by a bargaining agent.

12. (1) The employer shall ensure that the determinations made under section 11 are kept up to date.

(2) The employer shall give an employee a workforce survey questionnaire to complete,

(a) when he or she becomes an employee; or

(b) when the employee indicates that he or she would like to change any information previously submitted on a questionnaire.

(3) The employer and the bargaining agent shall jointly perform the duties described in this section with respect to the employees represented by the bargaining agent.

13. (1) The employer shall conduct a new workforce survey nine years after the date of the employer's most recent workforce survey.

(2) If a previous survey referred to in subsection 6 (2) is used when making the determinations required by section 11, the new workforce survey must be conducted nine years after the date of the previous survey instead of the date required by subsection (1).

(3) The employer and the bargaining agent shall jointly perform the duties described in this section with respect to the employees represented by the bargaining agent.

Review of Policies and Practices

14. (1) An employer shall review the employer's policies and practices with respect to the recruitment, hiring, retention, treatment and promotion of employees.

(2) An employer other than a small employer shall ensure that the review includes the following matters:

1. Recruiting, selecting and hiring employees.

2. Promoting employees and moving them between occupational groups in the employer's entire workforce.

3. Training and developing employees.

4. Evaluating employees' performance.

5. Terminating the employment of employees, including their dismissal, resignation or retirement.

6. Determining salaries and benefits.

7. Accommodating special needs of members of the designated groups.

8. Any treatment of employees or conditions of employment that are not otherwise addressed.

(3) Before preparing an initial plan, it is not necessary to review the employer's policies and practices with respect to part or all of the employer's workforce if the employer has already conducted a review and,

(a) the results of the previous review are up to date; and

(b) the results of the previous review are likely to be the same as what would have been achieved had the employer done the review described in subsection (1) or (2), as the case may be.

(4) The employer and the bargaining agent shall jointly perform the duties described in this section with respect to the employees represented by the bargaining agent.

(5) If the employer and the bargaining agent do not agree upon whether subsection (3) applies with respect to employees represented by the bargaining agent, either of them may request the opinion of the Employment Equity Commission about the matter.

(6) Subsection (5) does not prevent either party from making an application to the Tribunal under subsection 30(1) of the Act.

(7) The employer shall notify the Employment Equity Commission if the employer is relying on the exception described in subsection (3) with respect to employees who are not represented by a bargaining agent.

15. (1) Based on the review of policies and practices, the employer shall determine whether any of the employer's policies or practices is a barrier to the recruitment, hiring, retention, treatment or promotion of members of a designated group.

(2) The employer and the bargaining agent shall jointly perform the duties described in this section with respect to the employees represented by the bargaining agent.

Employment Equity Plan

16. The employer and the bargaining agent shall jointly prepare an employment equity plan or plans under subsection 12 (1) of the Act with respect to the employees represented by the bargaining agent.

17. (1) An employment equity plan must contain the following information:

1. A list of the policies and practices identified as barriers that will be eliminated during the term of the plan.

2. A list of the policies and practices identified as barriers that will be eliminated during the term of subsequent plans.

3. A description of the measures that will be implemented during the term of the plan.

4. A list of the numerical goals described in section 18 that will be achieved during the term of the plan and a description of how the goals were set.

5. A description of the timetable for implementing the measures and achieving the numerical goals.

6. A description of how the implementation of the measures and the achievement of the numerical goals will be monitored.

7. A description of the measures that have already been implemented.

8. A description of the procedure that a person may use to request accommodation in his or her employment or prospective employment and the procedure to be used by the employer in responding to a request.

9. A description of the consultations with employees under section 17 of the Act concerning the review of employment policies and practices and concerning the preparation of the plan, a summary of the employees' comments during the consultations and a description of how the employer has addressed concerns that were raised.

(2) The measures must include measures to eliminate barriers, measures referred to in clauses 12 (1) (b), (c) and (d) of the Act and measures to eliminate discrimination and harassment.

(3) The measures to accommodate members of the designated groups who request accommodation in their employment or prospective employment must be developed and implemented in accordance with the Human Rights Code.

(4) A small employer's plan is not required to include numerical goals.

18. (1) For each designated group, the employment equity plan must state a numerical goal for each occupational group in the workforce covered by the plan.

(2) Separate numerical goals must be stated for each geographical area covered by the plan.

(3) A numerical goal is the proportion of job openings in the occupational group that will be filled by members of the designated group.

(4) Seasonal employees and seasonal job openings are not to be considered when setting numerical goals.

(5) In this section, "job opening" means,

(a) an opportunity for a person to be hired as an employee of the employer into the job;

(b) an opportunity for an employee of the employer to be promoted within the occupational group;

(c) an opportunity for an employee to be promoted or transferred into another occupational group.

19. (1) The following factors must be taken into account when setting a numerical goal for a designated group in an occupational group and geographical area:

1. Any underrepresentation (in the employer's workforce covered by the plan) of the designated group in the occupational group in the geographical area in comparison with the representation of the designated group in the working age population in the geographical area.

2. The number of designated group members in the employer's entire workforce who have the necessary skills for entry into positions in the occupational group or who the employer could reasonably be expected to train to have those skills.

3. The level of representation of the designated group in the population groups described in subsection (2), to the extent that each population group has the skills for job openings in the occupational group.

(2) The following are the population groups that must be considered under paragraph 3 of subsection (1):

1. The working age population in the geographical area.

2. Persons in the geographical area who are in the occupational group.

3. Persons in the geographical area who have the necessary skills for employment within the occupational group.

4. Persons graduating in Ontario from educational and training programs that give them the necessary skills for employment within the occupational group.

5. Any other group for which the Employment Equity Commission provides data to the employer.

(3) Information about the population groups described in subsection (2) must be statistically valid and statistically reliable.

(4) If persons are usually recruited into the occupational group from a larger geographic area than the specified geographic area, the population group for the larger geographic area may be used for the purposes of paragraphs 2 and 3 of subsection (2).

(5) In this section, "working age population" has the same meaning as in the Statistics Canada publication "The 1991 Census Dictionary" dated January 1992.

20. (1) The term of an employment equity plan is three years.

(2) An initial plan comes into force not later than the date specified under section 23 of the Act.

21. When more than one employment equity plan is prepared, the plans individually and together must not defeat the principles of the Act.

Review and Revision of a Plan

22. (1) A revised employment equity plan must be prepared before the preceding plan expires.

(2) The revised plan must describe the steps taken to review the previous plan and revise it and it must be prepared using information that is up to date.

(3) It must meet the requirements for an employment equity plan under the Act.

(4) It comes into force when the preceding plan expires.

(5) The employer and the bargaining agent shall jointly perform the duties described in this section and in subsection 15 (1) of the Act with respect to the employees represented by the bargaining agent.

23. (1) Each employment equity plan prepared after the initial plan must indicate which numerical goals, if any, in the preceding plan were not achieved.

(2) If a numerical goal was not achieved, the subsequent plan must describe the measures to be developed and implemented to address the matter.

Certificates

24. (1) The certificate required by subsection 12 (3) of the Act for an initial plan must state that,

(a) the employer has provided the information and carried out the consultations required under the Act; and

(b) the employer has conducted the workforce survey, completed the review of the employer's employment policies and practices and prepared an employment equity plan.

(2) The certificate required by subsection 15 (2) of the Act for a plan prepared after the initial plan must state that the employer and, if applicable, the bargaining agent have reviewed the preceding plan and revised it.

(3) Each certificate by a small employer must state the number of employees in the employer's workforce and the number of members of each designated group at the beginning of the term of the plan and at the beginning of the term of the preceding plan, if any.

(4) Each certificate by an employer other than a small employer must do the following:

1. State the number of employees in each occupational group in the employer's workforce and the number of members of each designated group among them at the beginning of the term of the preceding plan, if any.

2. State the number of job openings in each occupational group that were filled during the term of the preceding plan, if any.

3. State the number of job openings in each occupational group that were filled by members of each designated group during the term of the preceding plan, if any.

4. State the number of employees in each occupational group in the employer's workforce and the number of members of each designated group among them at the beginning of the term of the current plan.

5. Describe the measures that were implemented during the term of the preceding plan, if any, and those to be implemented during the term of the current plan.

(5) Each certificate must state that the employer has prepared the report required under section 39 or 40, as the case may be, respecting the plan and must indicate where the Employment Equity Commission can obtain a copy of the report.

(6) The certificate must be signed by the chief executive officer or the equivalent of the employer.

(7) The certificate must be filed not later than six months after the plan comes into force.

Joint Responsibilities of Employers and Bargaining Agents

25. (1) If an employer's employees are represented by only one bargaining agent, the employer and the bargaining agent shall begin to establish a process for carrying out their joint responsibilities under the Act at least twelve months before the date by which they are required to have completed the employment equity plan.

(2) If the employer's employees are represented by more than one bargaining agent, the committee to coordinate the carrying out of their joint responsibilities under the Act shall begin to establish a process for carrying out those responsibilities at least twelve months before the date by which they are required to have completed the employment equity plan.

26. (1) On the coordinating committee, each bargaining agent is entitled to have one representative for each bargaining unit that is represented by the agent.

(2) A bargaining agent may choose to have one representative for two or more bargaining units, and two or more bargaining agents may choose to be jointly represented.

(3) The employer and each bargaining agent shall select their respective representatives on the coordinating committee.

27. The coordinating committee may determine the following matters with respect to those employees who are represented by a bargaining agent:

1. Whether to prepare more than one employment equity plan and how many to prepare.

2. Whether to subdivide the workforce within each plan and how to do so.

3. What steps will be taken with respect to each portion of the workforce.

4. Who will take each of those steps: the employer and the individual bargaining agents, the coordinating committee or another entity.

28. (1) For the purpose of carrying out its joint responsibilities under the Act, the bargaining agent shall consult with employees it represents who are members of the designated groups.

(2) If none of the employees it represents are members of a particular designated group, the bargaining agent shall request information from the Employment Equity Commission on how to address the concerns of that designated group.

(3) If no employees who are members of a particular designated group participate in the consultation, the bargaining agent shall request information from the Employment Equity Commission on how to address the concerns of that group.

29. (1) The employer shall provide the following information under subsection 16 (6) of the Act to the bargaining agent:

1. Any reports prepared under section 39 or 40 relating to the employment equity plan that applies in respect of employees represented by the bargaining agent.

2. Any order of the Employment Equity Tribunal or the Employment Equity Commission that applies with respect to those employees.

(2) In information to be provided to the bargaining agent, a reference to "one", "two", "three" or "four" members of a designated group must be amended to read "less than five" members before the information is provided.

30. (1) An employee who is representing a bargaining agent is entitled to spend whatever time during the regular work day away from his or her regular work that the employer and the bargaining agent agree is necessary,

(a) to attend meetings between the employer and the bargaining agent concerning their joint responsibilities;

(b) to prepare for any of those meetings; and

(c) to carry out duties arising from any of those meetings.

(2) Time that an employee of the employer spends on these activities is deemed to be work time for which the employee shall be paid at the regular or premium rate, as is appropriate.

Consultation with
Unrepresented Employees

31. (1) For the purposes of section 17 of the Act, the employer shall establish a process for consulting with employees concerning the workforce survey, the review of employment policies and practices and the employment equity plan that applies to them.

(2) The consultation process must include consulting with employees who are members of the designated groups, if any.

(3) If none of the employees being consulted are members of a particular designated group, the employer shall request information from the Employment Equity Commission on how to address the concerns of that group.

(4) The consultation process must provide an effective means for employees to identify any barriers in the employer's employment policies and practices and to comment on the employer's proposals for the plan.

32. (1) For the purpose of those consultations, the employer shall make the following information readily accessible to employees at their workplace:

1. A description of the consultation process.

2. The results of the workforce survey.

3. A summary of the results of the review of employment policies and practices.

4. A description of the measures proposed to eliminate barriers.

(2) An employer is not required to make information accessible to an employee if the information does not apply to his or her workplace or if it does not concern the employment equity plan applicable in respect of the employee.

(3) The employer may make the information readily accessible by posting it in the workplace or by posting a notice telling employees where in the workplace they may see it.

(4) In information to be made accessible to employees, a reference to "one", "two", "three" or "four" members of a designated group must be amended to read "less than five" members before the information is made accessible.

33. (1) An employee who is consulted under section 17 of the Act is entitled to spend whatever time that the employer considers is necessary,

(a) to attend meetings with the employer or participate in the consultations; and

(b) to carry out duties arising from any of those meetings or consultations.

(2) Time that the employee spends on these activities is deemed to be work time for which the employee shall be paid at the regular or premium rate, as is appropriate.

Information for Employees

34. (1) The employees of an employer must be informed about the principles of employment equity before any steps are taken under the Act.

(2) The employees must be told the purpose of the workforce survey before the survey is begun.

(3) The employees must be told the purpose of the review of employment policies and practices before the review is begun.

(4) The employees must be informed about the development and implementation of the employment equity plan that applies to them before the plan is prepared.

(5) The employees must be told how each stage in the process of preparing and implementing an employment equity plan is to be accomplished.

(6) The employer and the bargaining agent shall jointly perform the duties described in this section with respect to the employees represented by the bargaining agent.

35. The following information must be posted under clause 18 (1) (b) of the Act:

1. The summary of the Act and regulations made under it given to the employer by the Employment Equity Commission.

2. A summary of the consultation process for each employment equity plan that applies in respect of the employees in the workplace.

3. A description of how the implementation of the measures, timetables and numerical goals set out in each plan that applies in respect of those employees will be monitored.

36. (1) The following information must be posted under clause 18 (1) (b) of the Act or provided or made available under subsection 18 (3) of the Act to an employee:

1. The employment equity plan that applies to the employee.

2. Any reports prepared under section 39 or 40 relating to the employment equity plan that applies to the employee.

3. Any order of the Employment Equity Tribunal or the Employment Equity Commission that applies with respect to that plan.

(2) In information to be provided to an employee, a reference to "one", "two", "three" or "four" members of a designated group must be amended to read "less than five" members before the information is provided.

Employment Equity Records

37. (1) An employer shall establish and maintain records concerning the designated group membership, if any, and the employment history of all employees.

(2) An employer that is not a small employer shall also establish and maintain records on the occupational group classification of all employees.

(3) The employer shall keep these records up to date.

(4) The employer shall ensure that only those persons who are responsible for carrying out the employer's obligations under the Act have access to the records described in this section.

38. (1) An employer shall keep each employment equity plan and the information used to prepare it for three years after the plan expires.

(2) An employer shall keep workplace survey questionnaires and any other information used to prepare a workplace survey until the subsequent workplace survey is completed.

Employment Equity Reports

39. (1) An employer shall prepare an initial report about each initial plan within six months after the plan comes into force.

(2) The following employers shall submit the initial report:

1. The Crown in right of Ontario.

2. The designated employers in the broader public sector with 50 or more employees.

(3) The initial report of a small employer must set out the following information:

1. The number of employees to whom the plan applies and the number of members of each designated group when the plan came into force.

2. The number of employees who returned a workforce survey questionnaire to the employer before the plan came into force and the number of those questionnaires in which the questions set out in Schedule 1 were completed.

3. A description of the measures to be implemented during the term of the plan.

(4) The initial report of an employer that is not a small employer must set out the following information for each geographical area in which the plan applies:

1. The number of employees in each occupational group and the number of members of each designated group among them when the plan came into force.

2. The number of permanent full-time employees, permanent part-time employees, term employees and seasonal employees and the number of members of each designated group among them when the plan came into force.

3. The number of employees who returned a workforce survey questionnaire to the employer before the plan came into force and the number of those questionnaires in which the questions set out in Schedule 1 were completed.

4. A description of the measures to be implemented during the term of the plan.

(5) The initial report of an employer that has 500 or more employees must also set out the number of employees in each salary group for each occupational group and the number of members of each designated group among them when the plan came into force.

(6) In reporting the number of employees in each salary group, the employer is not required to indicate the actual salaries in the salary range of each salary group.

(7) An employer may include in the report other information that the employer considers relevant.

40. (1) An employer shall prepare a report about each employment equity plan within six months after the plan expires.

(2) The following employers shall submit the report:

1. The Crown in right of Ontario.

2. The designated employers in the broader public sector with 50 or more employees.

(3) The report of a small employer must set out the following information:

1. The number of employees to whom the plan applies and the number of members of each designated group at the beginning and at the end of the term of the plan.

2. The number of employees who returned a workforce survey questionnaire to the employer before the

plan came into force and the number of those questionnaires in which the questions set out in Schedule 1 were completed.

3. A description of the measures implemented before the plan expired.

(4) The report of an employer that is not a small employer must set out the following information for each geographical area in which the plan applies:

1. The goals set out in the plan concerning the composition of the employer's workforce.

2. The number of employees in each occupational group and the number of members of each designated group among them at the beginning and at the end of the term of the plan.

3. The number of permanent full-time employees, permanent part-time employees, term employees and seasonal employees and the number of members of each designated group among them at the beginning and at the end of the term of the plan.

4. The number of employees who returned a workforce survey questionnaire to the employer before the plan came into force and the number of those questionnaires in which the questions set out in Schedule 1 were completed.

5. The number of job openings during the term of the plan within each occupational group and the number of those openings that were filled by members of each designated group.

6. The number of persons who ceased to be employed within each occupational group and the number of members of each designated group among those persons.

7. A description of the measures implemented before the plan expired.

(5) The report of an employer that has 500 or more employees must also set out the number of employees in each salary group for each occupational group and the number of members of each designated group among them at the beginning and at the end of the term of the plan.

(6) In reporting the number of employees in each salary group, an employer is not required to indicate the actual salaries in the salary range of each salary group.

(7) An employer may include in the report other information that the employer considers relevant.

41. (1) Information about Aboriginal people, people with disabilities and members of racial minorities in a report, other than information concerning numerical goals, must indicate the number of men and women that are members of each of those designated groups.

(2) The determination of which employees are permanent full-time employees and which are permanent part-time employees is to be made in accordance with the employer's ordinary business practice.

Commencement

42. This Regulation comes into force on the day on which subsection 55 (1) of the Act comes into force.

Schedule 1

WORKFORCE SURVEY QUESTIONNAIRE

1. For the purposes of employment equity, women are a designated group.

   Are you

   Male ☐ Female ☐

2. For the purposes of employment equity, a person is an Aboriginal person if he or she is a member of the Indian, Inuit or Métis peoples of Canada.

   Based on this description, do you consider yourself to be an Aboriginal person?

   Yes ☐ No ☐

3. For the purposes of employment equity, a person is a person with a disability if the person has a persistent physical, mental, psychiatric, sensory or learning impairment and,

   i. the person considers himself or herself to be disadvantaged in employment by reason of that impairment, or

   ii. the person believes that an employer or potential employer is likely to consider the person to be disadvantaged in employment by reason of that impairment.

   Based on this description, do you consider yourself to be a person with a disability?

   Yes ☐ No ☐

4. For the purposes of employment equity, a person is a member of a racial minority if the person is, because of his or her race or colour, in a visible minority in Ontario . The fact that a person is an Aboriginal person does not make him or her a member of a racial minority.

   Based on this description, do you consider yourself to be a member of a racial minority?

   Yes ☐ No ☐

REGULATION MADE UNDER THE EMPLOYMENT EQUITY ACT, 1993

DEFINITIONS

Designated Groups

1. For the purposes of the Act, an Aboriginal person is a person who is a member of the Indian, Inuit or Métis peoples of Canada.

2. For the purposes of the Act, a person with a disability is a person who has a persistent physical, mental, psychiatric, sensory or learning impairment and who,

(a) considers themself to be disadvantaged in employment by reason of that impairment; or

(b) believes that an employer or potential employer is likely to consider the person to be disadvantaged in employment by reason of that impairment.

3. (1) For the purposes of the Act, a member of a racial minority is a person who, because of the person's race or colour, is in a visible minority in Ontario.

(2) An Aboriginal person is not a member of a racial minority solely because he or she is an Aboriginal person.

4. A person may be a member of more than one designated group.

Barrier

5. (1) For the purposes of the Act, an employment policy or practice is a barrier if it directly or indirectly adversely affects persons who are members of a designated group more than it affects others.

(2) A policy or practice is not a barrier if the policy or practice is permitted under section 5 of the Act.

Aboriginal Workplace

6. For the purposes of subsection 22 (1) of the Act, an Aboriginal workplace is a workplace operated by,

(a) a band as defined in the Indian Act (Canada);

(b) an authority, board, commission or corporation without share capital,

(i) the majority of whose members are Aboriginal persons, and

(ii) that provides services principally to Aboriginal persons; or

(c) a corporation with share capital or an organization of persons,

(i) the majority of the directors of which or the majority of members of the governing body of which are Aboriginal persons, and

(ii) that provides services principally to Aboriginal persons.

Construction Industry

7. For the purposes of the Act, "construction" includes erection, alteration, repair, dismantling, demolition, structural maintenance, painting, land clearing, earth moving, grading, excavating, trenching, digging, boring, drilling, blasting, or concreting, the installation of any machinery or plant, and any work or undertaking in connection with a construction project but does not include any work or undertaking in a mine.

8. This Regulation comes into force on the day on which subsection 55 (1) of the Act comes into force.

REGULATION MADE UNDER THE EMPLOYMENT EQUITY ACT, 1993

AGRICULTURAL INDUSTRY

1. (1) Seasonal employees in the agricultural industry shall be deemed not to be employees for the purposes of subsections 3 (5), 7 (2) and 7 (3) of the Act.

(2) Seasonal employees in the agricultural industry include employees employed under the Commonwealth Caribbean Seasonal Agricultural Workers Program or the Mexican Seasonal Agricultural Workers Program administered by Human Resources Development Canada.

2. Parts III, IV, V and VI of the Act do not apply with respect to seasonal employees in the agricultural industry.

3. This Regulation comes into force when subsection 55 (1) of the Act comes into force.

REGULATION MADE UNDER THE
EMPLOYMENT EQUITY ACT, 1993

ABORIGINAL WORKPLACES

1. (1) For employers operating an Aboriginal workplace, sections 23 and 24 of the Act are varied as provided in this Regulation.

(2) The variation applies only with respect to employees at the Aboriginal workplace.

2. (1) Subsection 23 (1) of the Act is varied as follows:

1. The day referred to in paragraph 1 is 24 months after the effective date.

2. The day referred to in paragraphs 2 and 3 is 30 months after the effective date.

3. The day referred to in paragraph 4 is 36 months after the effective date.

4. The day referred to in paragraph 5 is 48 months after the effective date.

(2) The day referred to in paragraph 2 of subsection 23 (2) of the Act is 30 months after the effective date.

(3) The day referred to in paragraph 2 of subsection 23 (3) of the Act is 48 months after the effective date.

3. (1) The day referred to in paragraph 2 of subsection 24 (1) of the Act is 30 months after the effective date.

(2) The day referred to in paragraph 2 of subsection 24 (2) of the Act is 36 months after the effective date.

4. This Regulation comes into force when subsection 22 (1) of the Act comes into force.

REGULATION MADE UNDER THE
EMPLOYMENT EQUITY ACT, 1993

CONSTRUCTION INDUSTRY

1. (1) For employers with employees in the construction industry, sections 23 and 24 of the Act are adapted as provided in this Regulation.

(2) The adaptation applies only with respect to employees in the construction industry.

2. (1) Subsection 23 (1) of the Act is adapted as follows:

1. The day referred to in paragraph 1 is 24 months after the effective date.

2. The day referred to in paragraphs 2 and 3 is 30 months after the effective date.

3. The day referred to in paragraph 4 is 36 months after the effective date.

4. The day referred to in paragraph 5 is 48 months after the effective date.

(2) The day referred to in paragraph 2 of subsection 23 (2) of the Act is 30 months after the effective date.

(3) The day referred to in paragraph 2 of subsection 23 (3) of the Act is 48 months after the effective date.

3. (1) The day referred to in paragraph 2 of subsection 24 (1) of the Act is 30 months after the effective date.

(2) The day referred to in paragraph 2 of subsection 24 (2) of the Act is 36 months after the effective date.

4. This Regulation comes into force when subsection 55 (1) of the Act comes into force.

Ontario

Ministry of Citizenship

Ministère des Affaires civiques

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